

183

# IMPACT OF UNFUNDED MANDATES ON STATE AND LOCAL GOVERNMENTS

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Y 4. G 74/7: M 31/19

Impact of Unfunded Mandates on Stat...

## HEARING

BEFORE THE

HUMAN RESOURCES AND INTERGOVERNMENTAL  
RELATIONS SUBCOMMITTEE

OF THE

COMMITTEE ON  
GOVERNMENT OPERATIONS  
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

FEBRUARY 26, 1994

Printed for the use of the Committee on Government Operations



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# IMPACT OF UNFUNDED MANDATES ON STATE AND LOCAL GOVERNMENTS

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SATURDAY, FEBRUARY 26, 1994

HOUSE OF REPRESENTATIVES,  
HUMAN RESOURCES AND  
INTERGOVERNMENTAL RELATIONS SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Sanford, FL.*

The subcommittee met, pursuant to notice, at 10:12 a.m., in the Seminole County Commissioners' Chambers, 1101 East First Street, Sanford, FL, Hon. Edolphus Towns (chairman of the subcommittee) presiding.

Present: Representatives Edolphus Towns, Steven Schiff, and John L. Mica.

Also present: Representative Corrine Brown.

Staff present: Ronald A. Stroman, staff director; Martine M. DiCroce, clerk; and Martha B. Morgan and Kristine Simmons, minority professional staff members, Committee on Government Operations.

## OPENING STATEMENT OF CHAIRMAN TOWNS

Mr. TOWNS. The Human Resources and Intergovernmental Relations Subcommittee will come to order.

This hearing is on Federal mandates on State and local governments. Over the last 10 years many State and local governments have experienced an unprecedented loss of revenue, particularly in major urban areas. Several recessions, and the exodus of businesses and middle class taxpayers have further reduced revenue growth. Simultaneously, there has been an increasing demand for social programs during a time when the Federal Government dramatically reduced its funding for such programs.

Direct Federal aid to local governments dropped to \$19.8 billion in 1990 from \$47 billion in 1980. During this same time, cuts in municipal authority to borrow or finance compliance with increasing Federal mandates created an untenable situation for State and local governments.

According to a 1992 Advisory Commission on Intergovernmental Relations mandate study, during the 1980's, 27 new laws or major amendments to existing statutes were enacted which imposed significant additional regulatory burdens on State and local governments. We also saw fiscal disparities between central cities and suburbs grow to the highest level ever recorded. The result has been a dramatic Federal march away from our Nation's cities.

This has created a crisis for many State and local governments. Most jurisdictions have had to reduce their work force and social service and infrastructure programs. We have created overcrowded conditions in our prisons, and decreased capital expenditures for items such as road repair or the repair of school buildings. These cuts have helped to erode the social fabric of our country, deepening poverty and unemployment.

There are some hopeful signs regarding Federal mandates. On October 26, 1993, President Clinton issued Executive Order No. 12875, in an attempt to address State and local concerns about unfunded mandates. The order requires Federal agencies to consult with State and local officials before imposing regulations. It also confirms the continuing need to evaluate costs and benefits and the importance of risk assessment. Under the requirements of the Regulatory Flexibility Act, EPA is trying to develop ways for small community input early in its development of environmental regulations. But we must go further.

We need a new partnership between Federal, State, and local governments to deliver services. We must begin the process of honestly determining whether Federal funds are available before we place costly mandates on the backs of local governments.

At this time, I would like to yield to the ranking member of this subcommittee, the gentleman from Albuquerque, NM, Congressman Schiff.

[The opening statement of Mr. Towns follows:]



OPENING STATEMENT CHAIRMAN EDOLPHUS TOWNS  
"FEDERAL MANDATES ON STATE AND LOCAL GOVERNMENTS"

SANFORD, FLORIDA

FEBRUARY 26, 1994

Over the last ten years, many state and local governments have experienced an unprecedented loss of revenue, particularly in major urban areas. Several recessions, and the exodus of businesses and middle class taxpayers, have further reduced revenue growth. Simultaneously, there has been an increasing demand for social programs, during a time when the Federal government dramatically reduced its funding for those programs.

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We need a new partnership between Federal, state and local governments to deliver our services. We must begin the process of honestly determining whether Federal funds are available before we place costly mandates on the backs of local governments.

Mr. SCHIFF. Thank you very much, Mr. Chairman.

First of all, I want to congratulate you on continuing our hearings on the issue of unfunded mandates. I think there is a universal view, an almost universal view that there are times when the Congress in Washington has to set a national policy. But I think we have moved from trying to be discrete in determining when such a national policy is necessary to bit by bit believing that from Washington we can run all of the affairs of every State and every community better than the elected officials from those States and those communities can do so themselves. I think that is a mistaken idea and the effect of it is more than philosophical. The effect of it is that when the Federal Government, either through congressional legislation or through the rulemaking power of agencies, imposes certain requirements on States and local governments without funding them, then the States and local governments' officials must, in turn, use their funds to comply with these mandates where there well may be things in their communities that are far more necessary for the benefit of their own people than what we, as Federal officials, are requiring them to do. And I think that there has been virtually a universal recognition that we have, in fact, gone too far in this area.

And I think your quoting President Clinton's actions with respect to Federal agencies, I think is very indicative of the fact that Congress and the administration do believe that we have pushed too far into the idea that the Federal Government should impose requirements on State and local governments without paying for them. There is much more of a recognition now that, if indeed, something is worthwhile as a national policy, then Congress should come up with the funds to accomplish it or support the States and local governments in accomplishing it. In other words, if it is important enough for us to say that it should be mandated, then it should be important enough for the Federal Government to say we are going to pay for it. And for the Federal Government to say this is important enough to do, but you and the State and local governments have to do it, I think is getting to be highly inconsistent to say the least. I'm glad to have the opportunity in a couple of moments to hear from the local officials here, too.

I want to take one other moment to say, thank you, on my recommendation, for having this hearing here in Florida in the district of our colleague, Congressman Mica, from whom we will hear in a moment. I want to say that Congressman Mica since arriving in Congress relatively recently is already a leader in the area of regulatory reform and in examining our policy on unfunded mandates. Now, so that the audience that is here, primarily I assume from Congressman Mica's district, doesn't think I am not just puffing here, let me give you a concrete example of what I am talking about. In the House of Representatives, we have very strict rules of procedure on how we do everything, unlike the Senate of the United States where, for example, Members can offer amendments at will to any piece of legislation that is on the floor. That is not how the House of Representatives works. The House of Representatives before considering any bill on any subject adopts a rule of procedure—which we for shorthand call the rule—as to any bill and



that rule, among other things, governs who can offer amendments and which amendments can be offered during that bill.

The way that procedure works is we have a Rules Committee that proposes the rule for each particular bill—the rule changing for each bill. And the Rules Committee makes its recommendations and in the 5 years that I have been in Congress, I can tell you that the rule proposed by the Rules Committee is almost universally adopted by the full House of Representatives. In other words, it is almost a form where the Rules Committee says this should be the rule that governs this bill; the House of Representatives votes in favor of the rule and then we go on and debate the bill in the form that they have set out.

Well, a funny thing happened, you know, on the way to work a couple of weeks ago with respect to the Environmental Protection Agency. We were about to consider a bill that would raise the Environmental Protection Agency to cabinet status. Congressman John Mica offered an amendment that said that in their rulemaking authority as a newly created cabinet level position, if that is what happens, that the Environmental Protection Agency must consider the cost of whatever regulations they propose that are not funded by the Federal Government on States and localities such as here and where you and I live, Mr. Chairman.

Now the point is that—first of all, this was an extremely I think reasonable position. It did not even say what, the bottom line, they could or could not do in the EPA. It just said you must consider at least what you are doing before you start imposing requirements on States and localities. Nevertheless, for whatever reason, the Rules Committee did not agree and the Rules Committee proposed a rule that would govern this EPA bill that did not include Congressman Mica's amendment. So we all came down to the House of Representatives kind of expecting that what normal procedure would occur, would occur this time. That is, the proposed rule would be adopted; we would debate the EPA bill without Congressman Mica's amendment. Now the only one who was not prepared to accept that was Congressman Mica, who stood up and in a very strong and forceful way made the argument to the House of Representatives that this amendment was so important to be considered, that we should not proceed on the EPA unless this amendment was part of the overall discussion.

The bottom line is, the full House of Representatives for only maybe the second or third time that I can remember seeing in 5 years voted to defeat the proposed rule and sent the whole proposed legislation on the Environmental Protection Agency back to the Rules Committee. That was done in a leadership effort by Congressman Mica. And so, when I say that your Congressman has been a leader in this issue, there is no stronger example than to do an almost—perform an almost unheard of accomplishment of defeating a proposed rule just on the basis we need to be discussing unfunded mandates in this bill.

With that, I yield back, Mr. Chairman.

Mr. TOWNS. Thank you, very much.

Let me also identify myself with the remarks of my colleague and friend from Albuquerque, NM. There is no question about the fact that when Mica grabs the mike, people listen. I think you should

be extremely proud of that. Also, I would like to say that he has also been a very active member of this committee. I have now been in the Congress 12 years and I have had an opportunity to serve with a lot of different members on various committees, but never have I been able to serve with a person that has been more active and more consistent and more determined in terms of making certain that we better the lives of people. He is so consistent with that. So I am delighted to serve on the committee with him and delighted to have him as a part of this subcommittee and delighted to be with him in his district here in Florida and to say that you are represented quite well in Washington, DC.

I yield now to Mr. Mica.

Mr. MICA. Thank you so much, Mr. Chairman. I am indeed honored by your comments and also those of the ranking member.

I do want to take this moment, first of all, to welcome you to central Florida and to what is really part of my district, the Seventh Congressional District, a new district, also part of Congresswoman Corrine Brown's district, who I serve with in the Congress.

I also see with us Georgia Flynn. Georgia is a representative of Congresswoman Tillie Fowler's office, a district representative. And we also are adjacent to Congressman Bill McCollum's district. Several fine colleagues that we have the opportunity to serve with.

But I do welcome you here. It is an honor to have a subcommittee of the U.S. Congress in our midst and to discuss an issue of extreme importance to many of the local officials who have gathered here today and also some of the State representatives who have come to testify and participate in this.

I might also say that you cannot do anything in Congress by yourself. I appreciate the assistance of local government organizations and local governments and State governments who helped us in our little battle that we won. It is just a small chip and a dent, and we have got a lot more to do. But I do again thank you for bringing this hearing on this most important subject.

This is the second in a series of hearings. The first one we attended in Harrisburg, PA and we focused on local government and regulatory mandates of the Federal Government. Just for the record, since 1980 there have been 182 unfunded mandates passed by Congress. The cost of unfunded Federal mandates is somewhere in the neighborhood of \$40 billion a year. It is estimated that 25 percent of the local government costs now are unfunded Federal mandates imposed again on local governments. From what I understand, it is becoming the single most important factor in increasing local and State taxes today, if you talk to State and local officials.

Today's witnesses are a good cross section of people from local government. We will also hear individuals who will talk about the impact of unfunded Federal mandates on the elections process and also on our schools which are so important to our local communities.

It is my hope from these series of hearings that we can work together in a joint bipartisan effort to try to first bring this to a higher elevation to the Congress. It takes an educating process. And then also look for manners, legislative and administrative, that we can enact to relieve some of the burden on our local governments.



Again, I thank you for coming. I am humbled by your kind words. And again, welcome to central Florida.

Mr. TOWNS. Thank you. Thank you very much for the invitation to come.

At this time, we would like to call to the witness table the Honorable Lee Constantine, the ranking member of the community affairs committee of the Florida House of Representatives and Ms. Nancy Wittenberg, director legislative affairs at the Department of Health and Rehabilitative Services the State of Florida.

Mr. MICA. Mr. Chairman.

Mr. TOWNS. I will be glad to yield.

Mr. MICA. If I may, I have a letter to me from Senator Daryl Jones who was scheduled to testify this morning. Senator Jones regrets that he is unable to be with us, but I do have his comments and suggestions. I ask unanimous consent that they be made a part of the record.

Mr. TOWNS. Without objections, so ordered.

[The letter follows:]



**SENATOR DARYL L. JONES**  
40th District

## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Community Affairs,  
Chairman  
Appropriations, Sub. D  
Corrections, Probation and Parole  
Governmental Operations  
Judiciary  
Rules and Calendar

### JOINT COMMITTEE:

Legislative Information Technology Resources,  
Alternating Chairmen

February 24, 1994

The Honorable John L. Mica  
427 Cannon  
Washington DC, 20515

Dear Congressman Mica:

Please excuse my absence at the hearing convened to discuss how the state of Florida is affected by the adoption of unfunded federal mandates. The cost of compliance to unfunded federal mandates places an unfair economic burden on states while absolving the federal government from the most direct source of limitations - money.

I have enclosed a statement of my testimony to detail by specific examples how unfunded federal mandates affect local government. Thank you for your attention in this matter. Please do not hesitate to contact my office if you should need any additional information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Daryl L. Jones", is written over the typed name.

Daryl L. Jones

jml  
eclosure

### REPLY TO:

- ☐ 9300 South Dadeland Boulevard, Suite 401, Miami, Florida 33156 (305) 442-8801
- ☐ 212 Senate Office Building, Tallahassee, Florida 32399-1100 (904) 487-5127

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President

**ANDER CRENSHAW**  
President Pro Tempore

**JOE BROWN**  
Secretary

**WAYNE W. TODD, JR.**  
Sergeant at Arms

# UNFUNDED MANDATES:

There are at least one hundred and seventy two unfunded federal mandates according to a recent report by Vice President Al Gore which impose requirements on state and local governments. Some of the requirements represent new policy concerns for federal regulators, while others are lengthy and complex laws that imposed multiple new obligations and requirements on both public and private entities. Ultimately, these requirements place an unfair burden on states to fund a federal mandate through state revenue.

Major new enactments at the federal level coupled with unfunded federal mandates have lead to an increase in expenditures through state revenue. Specifically, Florida has been burdened by an increase in the appropriations for several major areas of expenditures. In the area of education Florida reflects an increase of 8.0%, whereas in the area of medicare Florida reflects an increase of 20.6%. This increase in education and medicare is not exclusive but has been repeated in areas such as higher education, and prisons.

In regard to state and localities on a larger scale, the Congressional Budget Office has published data which estimates the intergovernmental fiscal effects of proposed federal legislation between 1983 and 1990. The data indicates that unfunded federal mandates imposed cumulative estimated costs of between \$8.9 billion and \$12.7 billion on states and localities.

Unfunded federal mandates implicitly require a state or local government to shift the priorities of local communities. In an effort to comply with federal mandates the state or local community is forced to initially meet any funding requirements of the federal mandate, thereby decreasing the amounts available to fund other localized priorities.

Florida has been innovative in selecting an alternative to unfunded mandates by adding Section 18 to Article VII of the Florida Constitution. That section is commonly known as the "local mandates amendment." Since its adoption at the November 1990 general election, the Florida legislature has had to consider the effects on cities and counties of every piece of general legislation coming before it.

The amendment covers three basic types of mandates. First, laws which do not fall within one of the exempted categories (e.g., criminal laws, election laws, laws having insignificant fiscal impact), and which require cities or counties to expend funds or to take actions requiring the expenditure of funds, need not be followed by cities and counties unless the legislature funds the mandate, or follows special procedures specified in the amendment. For example, the amendment provides for a legislative finding that the law will serve an important state interest accompanied by an enactment of the law by a two-thirds vote of

the membership of each house. An exception is also made for laws which are necessary to comply with federal law requirements, provided the legislature makes a finding of an important state interest. Second, laws which do not fall under one of the constitutional exemptions and which would reduce existing authority of cities and counties to raise revenue require a two-thirds vote of the membership of each house in order to be enacted. Finally third, laws falling outside of the exemptions and having the effect of decreasing the percentage of a state tax shared with cities and counties also require a two-thirds vote of the membership of each house of the legislature.

Following adoption of the constitutional amendment, the Florida Senate changed its rules to provide for reference of bills coming under the provisions of the local mandates amendment to the Committee on Community Affairs. As chairman of that committee, I have the responsibility to insure that legislation is properly reviewed and analyzed to determine the fiscal impact on cities and counties, and to move for referral of bills to the committee when amendments bring them under the constitutional mandates requirements.

The State of Florida has acted in good faith by adopting and actively implementing the local mandates amendment, and has taken what I believe is a giant step toward relieving our local governments of the burden of unfunded state mandates. However, our hands are tied when it comes to protecting Florida cities and counties--and the state itself--from unfunded federal mandates.

In addition, while the unfunded mandate problem affects state and local governments throughout the country, Florida's unique problems often compound the effect of unfunded or underfunded federally mandated programs. Florida's population continues to grow at a rate which is nothing short of astounding (with the elderly population growing at the highest rate of all), and our geographical location continues to place upon Florida a grossly disproportionate responsibility for dealing with the essentially federal problem of immigration.

Accordingly, I urge all members of Congress to carefully consider the various legislative proposals which have recently been placed before it to provide relief at the federal level. States are not, and therefore should not be assigned the role of a bottomless checkbook for federal laws.



Mr. MICA. Thank you.

Mr. TOWNS. Thank you.

Let me state to the witnesses that our procedure is that you have 5 minutes in terms of a statement and then after that, you have questions from the members. But let me assure you that your entire statement will be included in the record, every period, every i, everything that you put will be there. So if you would just summarize, this way, it would allow us to be able to cover more territory. We certainly would appreciate it.

So why don't we start with you Honorable Constantine.

**STATEMENT OF D. LEE CONSTANTINE, RANKING MEMBER,  
COMMUNITY AFFAIRS COMMITTEE, FLORIDA HOUSE OF  
REPRESENTATIVES**

Mr. CONSTANTINE. Thank you, Chairman Towns, Congressman Mica and other distinguished members of the committee. I would like to thank you for the opportunity to speak on the problem of unfunded mandates on States and local governments. At this time, I would like to take a minute to personally thank Congressman Mica for the outstanding job that he is doing for Florida in his district.

Ladies and gentlemen, we have a problem. As a former city commissioner of Altamonte Springs for 14 years and now a lead Republican on house committee on community affairs, I know first hand the numerous problems that this State and our cities have. Today one of the most serious problems is the inability of State and local governments to deliver sufficient services within its budget. Compounding this is the constant barrage of Federal legislation. This is the essence—this in essence creates revenue shortfalls causing local government to cut services that it deems necessary in order to fund Federal mandates.

Florida recognizes this burden put on local government and in 1990 the voters overwhelming approved a constitutional amendment that restricted the ability of the legislature to pass laws imposing mandates on counties and municipalities without providing them financial resources to pay for such programs.

Today the U.S. Congress has no such restriction, but it should. It can, and often does, mandate new and expanded programs only to transfer the responsibility of funding them to States and their political subdivisions. In other cases, it reduces or eliminates funding for certain programs administered at the State or local level. This is placing a major financial burden on the States by forcing them to spend a larger portion of their budget on federally mandated programs and less on programs that are deemed by the State and its local governments to be of a more urgent or important nature. Today, almost 18 percent of Florida's \$35 billion budget is spent on Federal mandates—over \$6 billion.

I am not here to debate or argue the goals or intentions of these mandates. This is not the issue. The issue is simple. States and local governments are required by Federal law to implement various programs without regard to the cost associated with them and wind up on the short end of the budget crunch.

Mandates force a single solution to be the solution for all. I argue that some issues, if not most, are better solved at the State and



local levels where the units of government are close to the people they serve and can respond to those people's diverse needs. Simply stated, decisions made at local level where the citizens have the direct impact are almost in all cases better.

Federal demands on the States are increasing in both cost and number. In the 101st Congress alone, at least 20 additional mandates were passed on to States for an estimated cost of \$15 billion over 5 years. Estimating cost to cities in the next 5 years total \$54 billion on just 10 unfunded Federal mandates.

The Davis-Bacon Act is a particularly onerous, and in the opinion of many, racist mandate that is applicable to all contracts of the United States in excess of \$2,000 for public construction, alteration or repair of public buildings or public works. The act requires that advertised specifications for every contract subject to the act contain a wage determination issued by the Secretary of Labor which is based upon the wages and fringe benefits prevailing in the area on similar projects. Since its 1931 adoption, the Davis-Bacon prevailing wage requirements have extended to more than 60 related acts. This has artificially increased construction cost, not only for the Federal Government, but State and local governments that receive various types of Federal assistance of construction.

Within a few weeks House Memorial 195, of which I am a cosponsor, will be voted on by the Florida House of Representatives. This memorial requests that Congress adopt legislation that will end the practice of imposing Federal unfunded mandates on State and local governments. I have little doubt that this will pass both the House and the Senate.

Florida is not the first, nor will be the last State to request this of Congress. In 1993, Maine, Missouri, and Idaho, just to name a few, requested through legislation that unfunded mandates be eliminated.

As of December 1993, the National Congress of State Legislators Mandate Watch identified 156 mandate bills as being filed before Congress. During the first session of the 103rd Congress, 13 additional mandate bills passed, bringing the total number of Federal laws containing mandates and pre-emptions on State and local governments to 185.

The Federal Government must end the burden of unfunded mandates imposed upon State and local governments. It would be my hope that Congress seriously consider the numerous mandate relief bills that have been introduced this session.

Foremost among these is the Federal Mandate Relief Act of 1993 by Representative Condit and 119 cosponsors. The piece of legislation basically states that no State or local government shall be required to comply with Federal requirements unless all funds necessary to pay the direct cost are provided by the Federal Government.

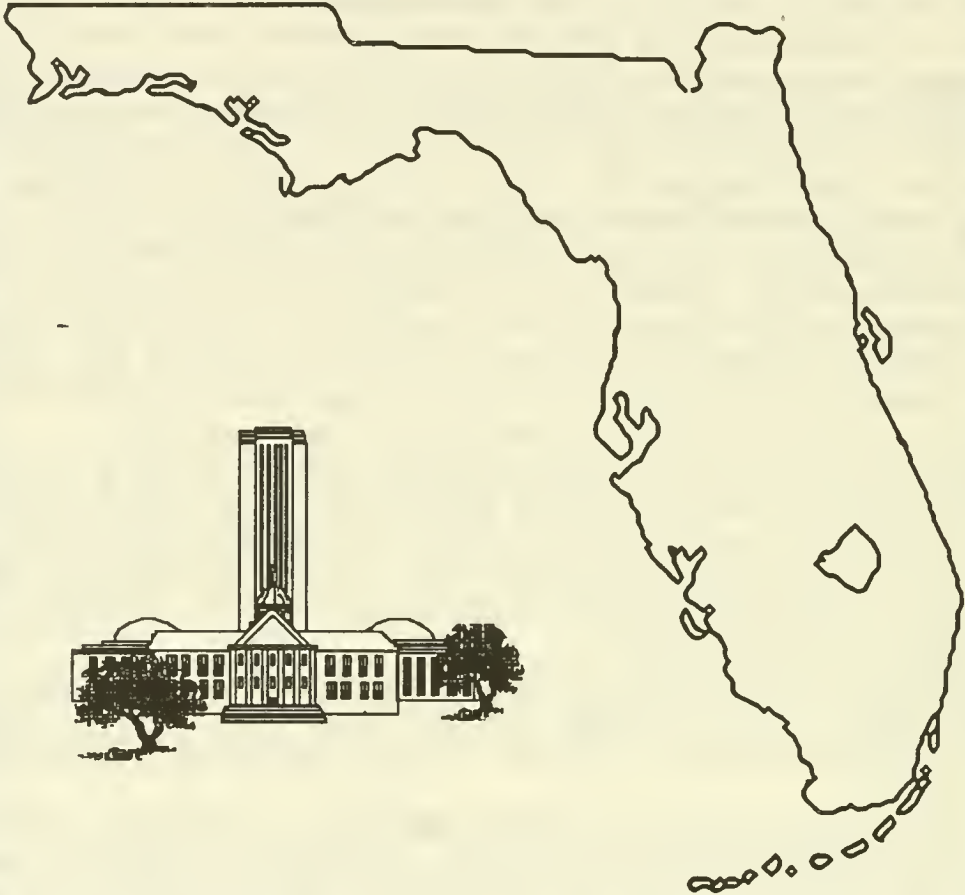
Again, Mr. Chairman, I would like to thank you for the opportunity to speak on the problem of unfunded Federal mandates. We must address this act of Federal piracy and usurpation of State and local government rights today. I hope by working together, we can resolve this major problem.

[The prepared statement of Mr. Constantine follows:]

# CONGRESSIONAL HEARING

Impact of Unfunded Federal Mandates on State and Local Governments

February 26, 1994



**Presentation by  
Representative D. Lee Constantine  
District 37, Altamonte Springs, Florida**

# **Florida House of Representatives**

Tallahassee, Florida  
32399-1300

Testimony of  
Representative D. Lee Constantine  
Florida House of Representatives  
on Behalf of the  
State of Florida

Before the  
Subcommittee on Human Resources and  
Intergovernmental Relations of the  
Committee on Government Operations  
U.S. House of Representatives

"Impact of Unfunded Federal Mandates  
on State and Local Governments"

February 26, 1994  
Sanford, Florida

## Florida House of Representatives

Tallahassee, Florida  
32399-1300

Chairman Towns, Congressman Mica, and other distinguished members of the committee, thank you for the opportunity to speak to the problem of unfunded federal mandates on states and local governments. At this time I would like to take this opportunity to thank Congressman John Mica for the outstanding job he's doing for Florida and his district.

As a former city commissioner of Altamonte Springs for 14 years, I know first hand the numerous problems facing our cities. Today one of the most serious problems is the inability of local government to deliver sufficient services within their budget constraints. Compounding this is the constant barrage of federal legislation. This in essence creates revenue shortfalls at the local level causing local government to cut services that it deems necessary to its citizens in order to fund federal mandates.

Florida recognized this expanding burden put on local government and in 1990 the voters overwhelmingly approved a constitutional amendment that restricted the ability of the Florida Legislature to pass laws imposing program mandates on counties and municipalities without providing them with the financial resources to pay for such programs.

Today the U.S. Congress has no such restriction, but it should. It can, and often does, mandate new or expanded programs and transfers the responsibility of funding them to the states and their political subdivisions. In other cases it reduces or eliminates funding for certain programs administered at the state or local level. This is placing a financial burden on the states by forcing them to spend a larger portion of their budget on federally mandated programs and less on programs that are deemed by the states and local governments themselves to be of a more urgent nature.



I am not here to debate or argue the goal or intention of these mandates. This is not the issue. The issue is simple. States and local government are required by federal law to implement the various programs without regard to the cost associated with them and wind up on the short end of a budget crunch.

Mandates force a single solution to be the solution for all. Opponents of federal mandates argue that some issues, if not most, are better solved at state and local levels where units of governments are close to the people they serve and can respond flexibly to those people's diverse need.

Federal demands on the states are increasing in both cost and number. The explosion of federal mandates started in the second half of the 1980s when many states were enjoying strong revenue growth, expanding services, and enacting innovative new programs. At the same time, the federal government was struggling to reconcile new spending demands and record budget deficits. The prevailing attitude in Washington was that states could afford new mandates. Congress learned quickly that it could take credit for new programs and program expansions while shifting the costs to the states. In the 101st Congress alone, at least 20 additional mandates were passed onto the states for an estimated cost of \$15 billion over five years.

The Davis-Bacon Act is a particularly onerous mandate that is applicable to all contracts of the United States in excess of \$2,000 for public construction, alteration, or repair of public buildings or public works. The Act requires that the advertised specifications for every contract subject to the Act contain a wage determination issued by the secretary of Labor which is based upon the wages and fringe benefits prevailing in the area on similar projects. All laborers and mechanics employed by the contractor and its subcontractors on the work site must be paid at least the applicable rate in the wage determination.



Since its adoption, the Davis-Bacon prevailing wage requirements have been extended to more than 60 "related acts" providing federal assistance in construction through loans, grants and loan guarantees.

This has artificially increased construction cost, not only for the federal government, but state and local governments that receive various types of federal assistance for construction.

Within a few weeks House Memorial 195, of which I am a co-sponsor, will be voted on in the Florida House of Representatives. This memorial requests that Congress adopt legislation that will end the practice of imposing unfunded federal mandates on state and local governments. I have little doubt that this legislation will pass, both in the House and Senate.

Florida is not the first nor will it be the last state to request this of Congress. In 1993 Maine, Missouri, and Idaho, just to name a few, requested through legislation that unfunded federal mandates be eliminated.

As of December, 1993, the NCSL Mandate Watch List identified 156 mandate bills and 39 mandate relief bills as being filed before Congress. During the first session of the 103rd Congress, 13 additional mandate bills passed, bringing the total number of federal laws containing mandates and pre-emptions on states and local governments to 185.

The Federal Government must alleviate the burden of unfunded mandates imposed upon state and local governments. This state has recognized this need and now cannot impose unfunded mandates upon local governments. Let the unit of government closest to the people it serves determine the appropriateness, the fiscal impact, and the necessity of implementing federal suggestions.

It would be my hope that the Congress seriously consider the numerous mandate relief bills that have been introduced in Congress.

Foremost among these is the Federal Mandate Relief Act of 1993 by Representative Condit and 119 co-sponsors. This piece of legislation basically states that no state or local government shall be required to comply with federal requirements unless all funds necessary to pay direct cost are provided by the federal government.

Again, Mr. Chairman I would like to thank you for this opportunity to speak to the problem of unfunded federal mandates on states and local governments. By working together I believe we can and should resolve this major problem facing all of us.

Table 1

**Estimated Costs of Unfunded Federal Mandates to Cities  
(Hours and Costs in Thousands)**

Mandates	Fiscal Year 1993				FY 94 - 98
	Estimated Annual Staff Hours (Excluding Overtime)	Estimated Annual Staff Costs	Estimated Annual Direct/ Indirect Budget Costs	Total Costs	Projected Total Costs
Underground Storage Tank Regulations (UST)	862	23,393	137,755	161,148	1,040,627
Clean Water Act (CWA)/Wetlands	57,378	1,185,549	2,426,984	3,612,533	29,303,379
Clean Air Act (CAA)	12,158	195,526	208,294	403,820	3,651,550
Solid Waste Disposal/RCRA	9,680	173,384	708,191	881,575	5,475,968
Safe Drinking Water Act (SDWA)	4,444	94,549	467,783	562,332	8,644,145
Asbestos (AHERA)	898	19,554	109,754	129,308	746,828
Lead Based Paint	374	7,875	110,342	118,217	1,628,228
Endangered Species	252	6,934	30,024	36,958	189,488
Americans With Disabilities Act	4,701	114,935	240,746	355,681	2,195,808
1. Fair Labor Standards Act (Exempt Employee & Other Costs)	1,227	22,765	189,358	212,123	1,121,524
<b>TOTAL</b>	<b>91,954</b>	<b>1,844,464</b>	<b>4,629,231</b>	<b>6,473,695</b>	<b>\$3,997,545</b>

By Representatives Mortham, Bo Johnson, King, De Grandy,  
Armesto-Garcia, Posey, Jones, Buddy Johnson, Manrique, Morroni,  
Littlefield, Starks, Thrasher, Fuller, Ogles, Bainter

House Memorial

A memorial to the Congress of the United States  
urging it to adopt legislation to end the  
practice of imposing unfunded federal mandates.

WHEREAS, the Federal Government has mandated new  
programs and transferred the responsibility of funding these  
programs to the several states and their political  
subdivisions, and

WHEREAS, the Federal Government has reduced or  
eliminated funding for certain programs administered at the  
state or local government level, and

WHEREAS, the several states, unlike the Federal  
Government, are required by their constitutions to balance  
their budgets, which further reduces their ability to absorb  
unfunded federal mandates, and

WHEREAS, the State of Florida, recognizing the inequity  
of passing unfunded mandates on its political subdivisions,  
amended its Constitution in November 1990 to prohibit state  
legislation or state administrative rules that require  
additional local government expenditures unless the  
Legislature of the State of Florida funds those mandates or  
provides a funding source, and

WHEREAS, federal mandates accompanied by federal  
funding, matching funds, or no funding force states to  
initiate and fund programs which the states would not  
otherwise have instituted and inevitably lead to the states'  
funding of such programs in their entirety, and

WHEREAS, the imposition of federal mandates is an  
erosion of the principle of state's rights, the effect of  
which is to limit decisionmaking at the state level and to

93-211-9-3

1 force mandatory spending which consumes a greater portion of  
2 the state's budget and seriously limits that portion which is  
3 discretionary, and

4 WHEREAS, the State of Florida along with other states  
5 would be able to better fulfill its budgetary obligations were  
6 the Federal Government restricted in its policy of arbitrarily  
7 increasing state costs with respect to federally mandated  
8 activities and services, and

9 WHEREAS, imposing the cost of congressional programs  
10 upon states and political subdivisions is a pusillanimous  
11 means for Congress to avoid its responsibility to deal with  
12 the federal budget issues, and

13 WHEREAS, Congress must face the same difficult  
14 decisions faced by state and local governments, and if a  
15 program is not worthy of full funding, perhaps it is not  
16 worthy of enactment, NOW, THEREFORE,

17

18 Be It Resolved by the Legislature of the State of Florida:

19

20 That the Congress of the United States is requested to  
21 adopt legislation to end the practice of imposing unfunded  
22 federal mandates on state and local governments and to fully  
23 fund those mandates that are deemed worthy.

24 BE IT FURTHER RESOLVED that this memorial be dispatched  
25 to the President of the United States, to the President of the  
26 United States Senate, to the Speaker of the United States  
27 House of Representatives, and to each member of the Florida  
28 delegation to the United States Congress.

29

30

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93-211-9-3

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2 This publication was produced at an average cost of 1.12 cents  
3 per single page in compliance with the Rules and for  
4 the information of members of the Legislature and the public.  
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Mr. TOWNS. Thank you very much, Mr. Constantine, for your testimony.

Ms. Wittenberg.

**STATEMENT OF NANCY K. WITTENBERG, LEGISLATIVE PLANNING DIRECTOR, FLORIDA DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES**

Ms. WITTENBERG. Thank you, Mr. Chairman, and thank you for inviting the State to be here and to participate with you today.

As Mr. Schiff aptly represented to you, there are a number of Federal mandates—unfunded Federal mandates that presume upon the State that we will have to pay and therefore, we are having to make those very tough decisions at the State level of how we are going to spend those very thin resources. Sometimes Federal mandates all but take choice away from the State. And that has happened in a number of Federal programs where the funding has diminished.

In my testimony today, I provided for you some examples of programs where Federal mandates have come down now to the State and have impinged upon the funding that—the very thin funding that is available at the State level and has taken away some of the choices that we had by asking us to fund those Federal mandates. Then use what we have left over to do those other things that our communities see are important in serving the clients that we serve in the department that I work with.

In 1986 there was a change in developmental services which allows us now to prescreen all entrance into nursing homes who are suspected of having a diagnosis of mental retardation. This funding, while 75 percent funded by the Federal Government, takes away well over \$1 million in funding in a program area which is very difficult for us to get funding for at the State level.

Also, we have programs in alcohol, drug abuse and mental health where there have been changes in the mental health requiring case management, and in substance abuse requiring the admission of dependent children into residential treatment with their mothers if it is requested. In child care supervision of children while mothers are in treatment. And counseling on obtaining employment, and training and parenting and additional case management services. None of these programs were funded and additional funds are very difficult to get.

The State realizes that in many cases these are very important programs and we applaud those programs. But still, our communities need to be able to make a choice as to what their priority is for providing that service within that particular community.

I detailed for you also some changes in child support enforcement, mostly in Federal funding which has diminished from 75 percent to 66 percent over the years.

One of the areas about which Florida has a long history and about which I know you have read—and you just came from Miami—is the area of immigration. In 1980 when the Refugee Act of 1980 was signed, it was a partnership between the State and the Federal Government. In that partnership, it was said to the Governors, Governors, since you have no control over the refugees, they will be coming into your community. The Federal Government is

going to provide a 36-month program, and that program you will administer with 100 percent Federal dollars.

In 1989 the Federal dollars for AFDC, SSI and Medicaid disappeared in that program. We now have only an 8-month program which we provide across the State and the funding continues to shrink. Meanwhile, the individuals coming in continue at higher numbers than they were when the agreement was signed in 1980. We believe the act was an important agreement and we want the Federal Government to continue to live up to that agreement.

The OBRA Reconciliation Act of 1986 was the act that extended Medicaid to undocumented aliens for emergency services if they meet financial and other category standards. That alone has had an increased cost of over \$15 million to the State of Florida since 1986.

Federal mandates we believe may be programmatically important, but we also essentially agree with the statements of the committee members here which have been essentially, that if it is important enough to do, it is important enough to fund. The Governor feels very strongly about that; our State agencies feel strongly about that and I know our legislature feels strongly about that.

Thank you, Mr. Chairman.

[The prepared statement of Ms. Wittenberg follows:]

Testimony  
Before the House Committee on Government Operations  
Subcommittee on Human Resources and Intergovernmental Relations  
of  
Nancy Kelley Wittenberg  
Legislative Planning Director  
Florida Department of Health and Rehabilitative Services

February 26, 1994

Mr. Chairman, Subcommittee members, and fellow attendees, good morning. It is a pleasure to be here to testify before you on how unfunded federal mandates impact states.

My name is Nancy Kelley Wittenberg and I currently serve as the Legislative Planning Director for the Florida Department of Health and Rehabilitative Services. Prior to this, I served as the Florida Refugee Programs Administrator for nine years.

Federally imposed mandates on states, while laudable in their purpose are rarely without cost shifts onto the states. We recognize the value of the programs but are concerned by the federal governments' imposition of these mandates without the financial underpinnings needed to equitably implement these mandates. The federal government mandates instruct us to act upon given requirements and to pay for them without consideration of who foots the bill. And there is always a bill.

State resources are neither limitless nor can they be borrowed. Many states, such as Florida, are constitutionally required to have balanced budgets. Therefore, when unfunded federal mandates are enacted, Florida is often placed in the unenviable position of having to determine which programs will be sacrificed to make the funds stretch to meet all the pressing needs of its populace.

Even when the Congress attempts to calculate the costs of these mandates, they fall short of including the true impact their actions will have on both their constituents and the local and state governments who have to implement them. The General Accounting Office found that when there is a large federal budget deficit, Congress is less likely to authorize reimbursements for expenses incurred by state and local governments with which to comply with federally mandated actions.

Congress should not be lulled into a false sense of security in assuming that they have found solutions by virtue of passing mandates. Telling state and local governments how they must spend more and more of their resources often leads to the subordination of state and local priorities. Hard choices need to be made, wholesale shifting of the burden onto state and local governments offers no solutions rather it causes greater and



more profound problems. These problems lead state and local governments facing spending requirements that far outstrip their ability to raise revenues.

The federal governments' mandates are increasing in both cost and number. The frequency with which they have been issued traces its history to the 1980s when many states were experiencing strong revenue growth and expanding services. This climate is no longer a reality. Today, we are striving to place ourselves in a posture that allows us to meet the needs of our populations without mortgaging or short changing our futures. Unfunded federal mandates make this enterprise very difficult. Estimates of what federal mandates cost states ranges from \$15 billion to \$500 billion. The National Conference of State Legislatures in 1991 estimated the fiscal year 1992 cost of seven proposed mandates at \$1.68 billion. Florida's share of the costs came to over \$87.4 million.

The issue of unfunded federal mandates to Florida given the federal governments' tendency to ignore Florida's growth when determining the state's share of federal funds. The growth and changing demographics of Florida's population combine to provide challenges in dealing with for all the varied needs of our residents. As the federal government has shed fiscal responsibility, state and local governments have had to try to deal with the fact that the federal role is not shrinking rather only their financial obligation. This inequity threatens the fundamental tenets of the federal-state relationship.

Let me give you some but clearly not all the examples of how unfunded federal mandates impact Florida. I will briefly share with you examples of the impact unfunded federal mandates have on social services in Florida.

**DEVELOPMENTAL SERVICES:** Congress enacted the Nursing Home Reform Act in 1987. It is estimated to cost Florida in excess of \$1.4 million in state general revenue funds. This act requires the Developmental Services Program to perform pre-admission screening and annual resident review of all individuals applying for admission to a nursing facility or residing in a nursing facility who are suspected of having a diagnosis of mental retardation or a related condition. While the federal government provides 75% of the funding for this function, federal criteria for mental retardation or a related condition includes individuals who are individuals who have a diagnosis of epilepsy or for whom the age of onset of their developmental disability was between the ages of 18 and 22. Even though these individuals are not eligible for services from Developmental Services, Developmental Services must provide the pre-admission screening and annual resident review for them. The 25% state share of the cost of this screening is paid from the budget for services and supports to individuals who are eligible for services under chapter 393, Florida Statute.

Anyone residing in a nursing facility who has mental retardation or a related condition and who meets nursing facility level of care may elect to remain in the nursing facility; however, if they need specialized services they must receive those specialized services.

The state must provide or arrange for the provision of these specialized services with no Federal Financial Participation or FFP.

Anyone who resided in a nursing facility continuously for 30 months prior to their initial resident review and who needs specialized services may remain in the nursing facility even if they don't meet level of care if they receive the specialized services they require. The state must provide or arrange for the provision of these specialized services with no FFP

Individuals covered by the previous two categories may elect to move from the nursing facility and receive specialized services from the Home and Community Based Services (HCBS) waiver which provides FFP. However, services which are not included in the HCBS waiver such as room and board and medical services must be paid by the state without FFP.

Individuals who do not meet nursing level of care, need specialized services but resided in the facility less than thirty months at the time of their initial resident review must be discharged from the facility and the state must provide or arrange for the provision of these specialized services with FFP.

The cost of these mandates is projected to be approximately \$1,406,930.00 in state general revenue each year.

**ALCOHOL, DRUG ABUSE AND MENTAL HEALTH:** During the 1992-93 federal fiscal year, all states receiving mental health and substance abuse prevention and treatment block grants were handed numerous unfunded federal mandates. These include:

#### FOR MENTAL HEALTH

- Case Management services for high priority mental health service consumers.

#### FOR SUBSTANCE ABUSE

- Admission of dependent children into residential treatment with their mothers, if requested;
- Primary medical care for women by referral or by provider;
- Prenatal care for pregnant women by referral or by provider;
- Pediatric health care, including 1) pediatric treatment for perinatal effects of maternal substance abuse, 2) screening regarding physical and mental development, 3) mental health counseling and other mental health services, 4) immunizations, and 5) comprehensive social services;
- Child care/supervision of children while mothers are in treatment and in other necessary health or rehabilitative services;
- Training in parenting;

- Counseling on domestic violence and sexual abuse;
- Counseling on obtaining employment, including importance of obtaining secondary degree;
- Efforts to "preserve and support the family units of women," by 1) promoting appropriate involvement of parents and others, 2) counseling children of the women;
- Case management services, including assistance in establishing for assistance under federal, state and local programs providing health, mental health, housing, employment, educational or social services, and ensuring TB services;
- Postpartum care (by referral or provider);
- Family counseling regarding substance abuse;
- Transportation for women and children to any specified services;
- TB services (medical evaluation and treatment);
- Outreach services, including contact with high risk substance abusers, their associates, neighborhood residents, and follow-up;
- New data systems for meeting new federal reporting requirements in treatment and prevention;
- Aftercare services and continuing care plans;
- Follow-up client evaluations;
- A new state wide system for peer reviews; and
- Early intervention services.

Although all human service providers believe the above listing of unfunded mandates to be important to the health and well-being of individuals, these services must come from existing dollars currently being spent on substance abuse treatment. Florida's substance abuse treatment system, on any given day, already has a waiting list of over 2,500 individuals. Diverting treatment dollars into the types of services described above will increase this waiting list and cause larger expenditures on smaller numbers of people.

#### CHILD SUPPORT ENFORCEMENT:

Two issues of serious concern to Florida relate to the Family Support Act. The first requires states to extend immediate income withholding to non-Title IV-D case. This requires public administration income withholding; precludes federal financial participation (FFP) toward costs incurred by the states; and prohibits state Title IV-D agencies from recovering their costs by limiting them to a \$25 annual fee while allowing other public agencies to recoup full costs. Actual costs range from nearly five to seven times that amount per case and as such will amount to a multi-million dollar unfunded mandate on our state.

The second issue relates to the funding structure for the Title IV-D system. Originally it reflected its purpose as a Title IV-A cost avoidance and recovery system. Over the last twenty years though, Congress has substantially increased mandated services while



reducing federal financial participation from 75% to 66% of program costs. These additional mandates have changed the focus of the program without changing the fundamental funding structure with the result that funding formulae actively discourage delivery of important services.

#### ECONOMIC SERVICES:

On June 7, 1991, in *HRS v. Solis*, the Florida Supreme Court held that asylum applicants are eligible for AFDC as they are "permanently residing in the United States under the color of law" (PRUCOL) due to the fact that INS has acquiesced in their presence in the country. In Ms. Solis' case, an INS official testified in his deposition that asylum applicants are generally allowed to remain in the US and that it could take as long as thirty years to process an asylum application. Because the Solis decision was decided under state law and conflicts with federal regulations, the state will have to implement a general assistance AFDC program. Two years ago, the department estimated that it could cost as much as \$48 million to provide assistance for this new eligibility group. Although this is a state program and was decided under state law, it is INS' inaction that has placed this state in this situation.

#### REFUGEE SERVICES/IMMIGRATION:

Florida has a long and colorful history in relation to resettling refugees. Between 1875 and 1993 over 260,000 refugees, entrants, Amerasians, Cuban and Haitian asylum applicants and parolees have resettled in Florida. Immigration is a federal responsibility under the US Constitution. Providing services to refugees is also a mandate from the federal government.

In recent years, the Federal Government's efforts have not been equal to their initial commitment as written into the refugee act of 1980, signed into law on March 17, 1980. The act authorizes 100% federal reimbursement of cash and medical assistance for refugees during their first 36 months in the country or "To the extent of available appropriations". The act specifically allowed states with the AFDC, SSI, or Medicaid eligible refugees to be reimbursed for the state's share of qualified refugees service costs under these benefit programs.

The phrase "To the extent of available appropriations" has taken its toll. Since October 1989, it has forced the cessation of state reimbursement for refugee related AFDC, SSI or Medicaid costs as well as the radical reduction of refugee cash and refugee medical assistance funds. This does not mean that we stop providing AFDC, SSI or Medicaid to refugees; rather we receive no federal reimbursement for the cost of the services to them and thus the cost is transferred onto the shoulders of the state and therefore individual citizens. Refugee cash and medical assistance fund reductions have, however, brought the program to the point where, at best, eight months of service costs may be available this year. Once this funding is no longer available, services do stop



because this population is not eligible for the federal program counterparts. The impact of the first loss is that cost is shifted to the states general revenue fund, the impact of the other is a burden on the refugee and to a certain extent the voluntary agencies resettling them because without these programs they will return.

In 1980 we made an important agreement with the Federal Government and Florida believes we have lived up to our part of the agreement as has the private sector. To Florida, a critical part of the refugee act, was the partnership structure between the Federal Government and the states; a partnership that sought to ensure the refugees successful resettlement and assimilation into their new communities. We want to continue as a partner with the Federal Government as we are convinced does the private sector, but in these difficult fiscal times, we and others are finding it increasingly difficult to provide refugee services without the necessary Federal funding.

Another area of unfunded federal mandates which directly impacts Florida and is also tied to immigration is the Omnibus Reconciliation Act of 1986 (OBRA). OBRA requires states provide coverage of emergency services to aliens if they meet financial and category standards. Under the US Constitution, immigration is a federal responsibility, services to undocumented aliens should not be a state cost but rather a federal cost. Since 1988, OBRA 86's unfunded mandate has costs the state of Florida over \$15 million. In 1992, the states' cost ran to over \$6.2 million for services to undocumented aliens. States such as Florida need assistance to be able to continue to meet the needs of this and other populations.

Federally imposed mandates must be linked with the fiscal means to implement the programs. To do otherwise leaves states and local governments grappling with identifying the most viable means of meeting these requirements and the other priorities facing their constituents.

Mr. TOWNS. Thank you very much for your testimony.

Let me sort of ask both of you; other than money, what can the Congress do—I know money will help, but in terms of Federal agencies creating a better working partnership with State and local government, what can we do to ease the burden to a degree?

Ms. WITTENBERG. I think that one of the important things that we have tried to do, Mr. Chairman, in the State of Florida is to try to have our agencies managed at a local level. To have—to return the management of agencies to the people. I think it is something that Representative Constantine touched on as well. The closer you are to the clients who have needs, the closer you are to the people who have difficult situations which need to be dealt with, the more understanding you have of how it should be done. So that partnership is very important. Consultation certainly before a mandate is sent down. Participation is very important as well. And State governments, as well as representatives, elected legislators, through national organizations have mechanisms to participate in that process in Congress and actively participate in that process. But I think that consultation—prior consultation and involvement, and then if the Federal Government feels strongly enough to mandate, allow the funding to come with it. If the funding doesn't come with it, then allow the local and State governments to run the programs as they see fit, not to continue that massive Federal role without the dollars.

Mr. CONSTANTINE. Mr. Chairman, two very quick things. First of all, as Ms. Wittenberg has indicated, you know, you act more as a funnel in bringing it down to the local government and letting them handle the problems at the local level, in conjunction with Federal Government and their agencies fine, but working together in a cooperative manner.

The second thing that we do at the Florida Legislature since the constitutional amendment on unfunded mandates has come through is that every single piece of legislation—we have very similar to what Congressman Mica has asked with the EPA. Every single piece of legislation we have takes into effect what—you know, what funding is going to be required at the local level, whether this is a mandate to local government and how it is going to be funded. It is a very simple procedure on the bill.

Mr. TOWNS. Let me just sort of follow up, Ms. Wittenberg, on your comment which I found to be very interesting. You mentioned that consultation—and I agree, you know, in terms of consultation. I think it is very important. Do you have any ideas as to how that consultation should take place?

Ms. WITTENBERG. Well, the Federal Government and Congress is organized much in the same way that State and local governments are organized. The committees all have substantive agencies that report to them. But I think that meetings such as these where people have an opportunity to give you input on particular topics are important. I believe solicitation of ideas also are important. And through those organizations like the National Council of State Legislatures, the National Governors Association, the National Association of Counties, the National League of Cities, or Conference of Mayors I guess it is, those are all important organizations that



need to be brought into the discussions before bills are prepared when those issues are being debated before Congress.

With regard to immigration and the setting of limits on the numbers of refugees that come in, the State Department is required to consult with State and local governments and voluntary agencies prior to making a recommendation to the President and to Congress on the refugee ceiling. We think that is an important first step.

Mr. TOWNS. I am very concerned about this, because as we talk about health care reform because some of these things don't come down in a straight kind of way. They sort of come to us through the backdoor. And as I look at health care reform, we are not covering the undocumented, which means that somewhere along the line somebody has to pay for that. You talked about immigration and we talked about undocumented workers here a moment ago. I think that is something that we really have to take a very serious look. However, in this State, you have done some things I think to protect yourself which is—I think to a degree, but I am sure it is a long way from being enough. Because what happens here in most cases is that we pass a law in Washington and then the State passes it down to the local and then, you know, the local has no where to pass it and then, of course, that becomes a real, real problem. But at least you have done a little something here to sort of bring about some protection, but still it is not enough because the real job has to be done I guess in Washington in the Federal Government. I think the only other problem I have is—and then I am going to yield because my time is up. I see the red light is on. That red light means that your time is up. As we look at this, you know, in terms of—it is very difficult to consult with every State. You know, that is a problem. But I would like to talk to you more about that, you know, to see in terms of what we could do, because I think that we cannot continue to do business as we have done it in the past. Because when you find out in terms of the—I was just looking at it, it says 185. That is more than I even realized. I thought it was 181. But anyway, 181 is bad enough but 185 is worse, you know, no question about it. You know, especially when you are not sending the money down with it. So it is a real, real problem. Let me stop at this point. The red light is on.

I yield to my colleague, the ranking member, Mr. Schiff.

Mr. SCHIFF. Well, I think you have touched bases pretty well, Mr. Chairman.

I would like to ask about one area particularly to Ms. Wittenberg. And that is on the issue of immigration, particularly of illegal immigration. I think that your reference to the fact that the Federal Government bears the chief responsibility—because it is not the States that control access into our borders—is well taken. But I would like to ask, at the State level, if there were more distinction made in providing services from those legally present to those whom we call undocumented workers, could that be done in a way that would not generate discrimination against U.S. citizens who happen to be a minority in this particular—in this particular case, the southern part of the United States, Hispanic origin. In other words, if States had more latitude in saying, well, we do not have to provide this particular to an undocumented

worker, could that lead to—how would you know? At the State level, how would you know the undocumented workers from the nonundocumented workers, that are legal residents here, in a way that would not be prompting discrimination against our own people? Do you have any thoughts on that?

Ms. WITTENBERG. Well, in 1986, along with the passage of the Immigration Reform and Control Act, there was a mandate that we are required in an agency where an entitlement program is offered to check immigration status for any person not born in the United States who presents themselves for services. So that we already do. We do look at people—and some of them who are not born here in the United States have already naturalized and are citizens. But that is done across the board to anyone not born in the United States. So we check immigration status and that must be verified with the Immigration and Naturalization Service, which we do through a number of different ways in the State of Florida. But it is not with regard to immigration and the overall general issue of undocumented and illegal immigration. The Governor's issue with regard to that particular subject is that it is a Federal responsibility and the Federal Government needs to enforce the laws. If the Federal Government isn't going to enforce the laws though, then the States and local governments need the money to deal with the aftermath of that lack of enforcement.

Mr. SCHIFF. Well let me just say that I agree with that. I agree with that position. The States certainly have never been empowered to, you know, control access to the country. If anything, it has always been a Federal responsibility. That is exactly right.

Mr. Chairman, I yield back. Thank you and thank the witness.

Mr. TOWNS. At this time, I will be happy to yield to Congressman Mica.

Mr. MICA. Mr. Constantine, I appreciate your service on community affairs and your leadership in this particular area. Your comments and statistics, I think sort of brought home the impact of this problem. Has there been any study or research done as to how many Federal mandates are coming to the State level and then the legislature is required to enact legislation to pass the mandate on to the local level? Can you think of any examples where we are doing that?

Mr. CONSTANTINE. Shifting government—we shift from one to the other passing—

Mr. MICA. Cost shifting.

Mr. CONSTANTINE [continuing]. Off to the third person, yes. Yes, cost shifting. You know, specific instances at this time, I have not written any down. I am sure that we can get back to you on many that we have to do. But it does happen all the time. Clean Water I think is one of them. The Clean Air ACT, ADA. If you go—I could go on and on and on. The local government also has to come back and participate. Later on in the day, you are going to be talking to the mayor or Orlando and the chairman of the Commission of Seminole County. They can certainly give you specific instances, I am sure, about how the State has taken a Federal mandate and then had to cost-shift it down to the local government.

Mr. MICA. Another issue—in fact, the mayor of Sanford, Betty Smith is with us this morning. She raised this morning to me the



impact of Federal court mandates and their being passed on. Has any of this been sorted out as to what you are required to perform as far as Federal court mandates versus Federal legislative mandates?

Mr. CONSTANTINE. I have no specific instances of that.

Mr. MICA. If your committee or committee staff—

Mr. CONSTANTINE. We can get that, yes.

Mr. MICA [continuing]. Get those two areas, I think that that would be interesting to sort out.

Mr. CONSTANTINE. Just in the criminal justice and in juvenile justice, which we are struggling with right now at the legislature trying to find funds and ways and means to make an impact on that very serious problem; I can tell you that there are a great deal of requirements that we have to go through from the Federal level, which then our judges turn over to sheriffs and city police chiefs, and their legislative branches and have to pay for. So, you know, I can give you numerous instances. I would be happy to have the staff provide you with that.

Mr. MICA. Another item we might look at is what duties that are imposed from the Federal level that are also jointly done by State and Federal Government. For example, EPA. Do you think that there is a possibility of transferring totally some of the responsibility for some of these activities from the Federal level to the State level? Of course, you might have exceptional areas where you had crossed State jurisdictional lines or items that take on a national or international significance, but do you think it would be possible for the State to assume some responsibilities and also the funding for those and eliminate some of what I consider duplication?

Mr. CONSTANTINE. Well Congressman Schiff said it in his opening statement. You know, there are times when it is necessary obviously for the Federal Government to create a level playing field, if you will, or a lower—you know, I mean a standard, if you will. But then, you know, each State has specific requirements that they feel are important for the development of their communities and their State. I think that there are very few instances in which the State cannot provide and perform those services at a much better, more efficient cost and also the priorities that their citizens have. You were with us Monday when we had a joint meeting of the legislature and the Florida members of the delegation in Congress and you are well aware that per capita spending in the United States—and thank you for the opening. But the per capita spending that Florida receives from the Federal Government is 49th in health and human services; 46th in environmental protection; 44th in education and 50th in transportation in a State that is—you know, it is very important to—

Mr. MICA. It is fourth in population.

Mr. CONSTANTINE. And fourth in population. But I am talking about per capita spending in a State that is exploding in population and very important to tourism that we have transportation means. So, you know, yes, I think we can provide services much better. All services, you know, from the local level in a much better fashion than Federal in almost all cases.

Mr. MICA. Do you want to respond, Ms. Wittenberg?

Ms. WITTENBERG. [Shaking head negatively.]

Mr. CONSTANTINE. She agrees. [Laughter.]

Mr. MICA. One final question. My time is just about up. Maybe Mr. Schiff will yield a moment of his excess time.

Mr. SCHIFF. I will if the chairman consents.

Mr. TOWNS. I will be delighted.

Mr. MICA. I can see just from our activities in one area, the risk assessment in EPA, what a tremendous impact a conference on State legislatures and the National Governors Association can make. I think that if we take up the same mantle—and, of course, some of the support that we had was also because this is viewed as an unfunded Federal mandate, is going individually through the associations, the counties, cities, Governors to lobby Members of the Congress and educate—educating too. Sometimes the idea sounds awfully good at the Federal level but the cost becomes very burdensome when it is passed on, particularly without any funding or limited funding, to execute the good ideas. So do you think it would be possible to get your associations involved in this issue?

Mr. CONSTANTINE. Oh, yes.

Mr. MICA. And again, at a more active level?

Mr. CONSTANTINE. Yes.

Mr. MICA. Thank you, Mr. Chairman. I've finished my questions.

Mr. TOWNS. Thank you.

Let me just sort of raise one other question I guess with you, Ms. Wittenberg. I know that the health care proposal is a moving target. We are not certain where it is going to end up or how it is going to end up. But have you or anyone in the State had an opportunity to evaluate basically what is being proposed now to see in terms of what it would do to Florida in terms of cost? Because I am still looking at this whole undocumented problem which means if there are no funds for that, that somebody has to pay because they can get sick, they can go to the hospital and what happens in those cases. So has anyone sort of looked at that to see in terms of, you know, what this means for the State?

Ms. WITTENBERG. Yes, sir. They are in the process now through the Florida/Washington office of evaluating all of that and I will be happy to get that information to you.

Mr. TOWNS. OK. Because what I am saying in essence is that, you know, sometimes it is a clear cut kind of mandate. You know, where a bill is passed and this what everybody is supposed to do. But then again, it is not clear cut, but it's something that you are a victim of. I think that sometimes we have to be very careful about that because the regions of this country is just so different. I have found that out in terms of—just cost is just different. A lot of things are just different. So when we start legislating nationally, I think sometimes we forget that Sanford, FL is different from Mundy, MS.

Mr. CONSTANTINE. Mr. Chairman, if I could just one thing. As you know, last year we passed a new health care package in the State of Florida which many people have lauded as an example of how States can perform at a local level—the health care. One of the fundamental differences in the package that we have with the Federal is that we do not mandate that it was a requirement. It was optional on the employee—on the employer, not required that they had to go through our boards.



Mr. TOWNS. Thank you very much. As I indicated yesterday, we want to learn more about what is happening here with health care and maybe it can be helpful in terms of what we are doing nationally.

Thank you very much, Mr. Constantine and also Ms. Wittenberg for your testimony.

Mr. CONSTANTINE. Thank you.

Ms. WITTENBERG. Thank you, Mr. Chairman.

Mr. TOWNS. I would like to call to the witness table Dorothy W. Joyce, director of division of elections, Florida Department of State and Dick Van Der Weide, chairman of the Seminole County commissioners.

First of all, let me thank both of you for coming. I guess by now you have sort of heard the rules in terms of what that light means. I notice that you have noticed that we have disrespected it a little bit ourselves, but we do try to use it as a guide. So if you would start and summarize within 5 minutes, your entire statement will be included in the record.

So Mr. Van Der Weide, why don't we start with you.

#### **STATEMENT OF DICK VAN DER WEIDE, CHAIRMAN, SEMINOLE COUNTY BOARD OF COMMISSIONERS**

Mr. VAN DER WEIDE. Thank you, Chairman Towns, Congressman Mica and, of course, other distinguished members of the panel for the opportunity to express the concerns of the Seminole County Board of Commissioners regarding the impact of unfunded Federal mandates on our community.

As one of the fastest growing counties in central Florida, Seminole County continues to experience increases in key areas of commercial land use, office development and retail activity. This growth momentum continues to result in costly community needs for new schools, roads, water and sewer infrastructure and recreation. And unfortunately, along with the significant population growth has come an increase in crime, particularly juvenile crime, and this also costs money.

Seminole County has been challenged with managing this growth in concert with maintaining a high quality of life that has served as a magnet for people to relocate to central Florida.

As a high growth county, the Seminole Board of County Commissioners has made, and continues to make painful fiscal decisions aimed at paying for this growth without overburdening our taxpayers. At best, given our tremendous infrastructure needs, particularly transportation, our dollars are continually being stretched to meet mandated service level needs.

The overlay of unfunded mandates from the Federal Government, currently estimated at \$9 annually and projected to be \$11 million by 1998 in Seminole County, simply serves to place a greater burden on our already stressed fiscal resources. This "pass the buck" federalism must stop. You have perhaps heard the expression there is no free lunch. Well, for too long there has been a free lunch served to the Federal Government from the citizens of local government who are required to pay the bill.

On behalf of the Seminole County Board of Commissioners and the National Association of Counties, we urge you to use your influ-

ence to support legislation that requires the Federal Government to stop these free lunches at our expense and to look much more closely before it imposes any mandates on local government. The Federal Government should provide its own funding for any mandate that it truly believes is essential. When you have to pay the bill, this should bring some reality to the process.

Thank you, Mr. Chairman.

[The prepared statement of Dr. Van Der Weide follows:]



**TESTIMONY ON  
"IMPACT OF UNFUNDED FEDERAL MANDATES  
ON STATE AND LOCAL GOVERNMENTS"  
CHAIRMAN DICK VAN DER WEIDE  
9:00 A.M., SATURDAY, FEBRUARY 26, 1994**

Representative Mica and Chairman Towns, thank you for the opportunity to express the concerns of the Seminole County Board of Commissioners regarding the impact of unfunded federal mandates on our community.

As one of the fastest growing counties in central Florida, Seminole County continues to experience increases in key areas of commercial land use, office development and retail activity. This growth momentum continues to result in costly community needs for new schools, roads, water and sewer infrastructure, and recreation. And unfortunately, along with the significant population growth has come an increase in crime particularly juvenile crime, and this also costs money.

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thank you.  
SL/RR/DV/rmc

SEMINOLE COUNTY  
UNFUNDED FEDERAL MANDATES/REGULATIONS  
COSTS CHART

<u>MANDATES</u>	<u>TOTAL COSTS FY 93</u>	<u>PROJECTED TOTAL COSTS FY 98</u>
Clean Water Act/ Wetlands	2,550,379	4,759,250
Subtitle D/Resource Conservation and Recovery Act	4,355,000	5,400,000
Safe Drinking Water Act	622,870	366,480
Superfund Amendments	98,792	174,488
Americans With Disabilities Act	51,300	2,000
Davis-Bacon Act	39,600	46,000
Arbitrage	843,050	408,000
Immigration Act	<u>151,891</u>	<u>167,699</u>
TOTAL	8,712,882	11,293,917

Mr. TOWNS. Thank you very much, Mr. Van Der Weide.  
Ms. Joyce.

**STATEMENT OF DOROTHY W. JOYCE, DIRECTOR, DIVISION OF  
ELECTIONS, FLORIDA DEPARTMENT OF STATE**

Ms. JOYCE. Thank you, Mr. Chairman. I too would like to welcome you all to Florida. I think we have a wonderful State and we are very happy to show it off to those of you who are able to come down occasionally.

I was asked to speak to you today about the fiscal impact to the State of Florida caused by the National Voter Registration Act of 1993. This was the act that mandates that voter registration be done through the mail-in process, the drivers license offices and through those State agencies that provide public assistance to our many citizens. We are very concerned about the fiscal impact this will have on the State of Florida. Because the National Voter Act only applies to Federal elections, if a State does not enact legislation to curve the ball so that all voter registration is going for all elections, then you are going to have to have two separate voter rolls in the State. One for those who are registered under current law and who would only be able to vote in State and local elections and another set of voter rolls for those who would only be eligible to vote in Federal elections. This is something that would certainly cause mass confusion. It would be very costly to the States to run two separate types of voter registration and therefore running two separate types of elections. I believe it may also result in a lot of errors and possibly overturning a lot of elections. Additionally, it would disenfranchise many voters.

I am not certain at this point that our legislature is in a position to do the needed changes that are necessary. There are many members in our Florida senate who have said that they just really resent the fact that the Federal Government has, "crammed this down our throats to tell us how to run our elections in Florida."

Although this national act requires us to develop our own mail registration form that will be used throughout the State, it also mandates that we have to make available for the public's use a national form that can be used in any State in the country. This is a form that, because all States have different requirements for voter registration, will be a lengthy booklet. This is something that is being put together by the Federal Elections Commission and once it is completed, we estimate it is going to cost around 25 cents per form for each State to purchase. Florida, as you all know, is the host to many national conventions. We therefore believe that Florida may be subsidizing voter registration in a lot of other States because we will be called on to give this national or universal voter registration form to people who are in our wonderful State for conventions. We will, of course, have our own form and our form will be made available throughout the State. We estimate the cost of our form to be 4 cents and that compares to 25 cents per form for the universal form. Florida presently has around 6.5 million registered voters. We have another 4 million who are eligible, but who are not registered. We certainly hope that all of those do avail themselves of the opportunity to get registered. And in order to comply with all of the mandates that are at the State



level, we estimate around \$615,000 at the State division of elections alone. That is purely for printing and postage.

There are other agencies in Florida who are impacted by this act. The biggest being the Department of Health and Rehabilitative Services. They provide public assistance to over 1 million adults annually. They have estimated their cost for this form and to provide the voter registration services to be over \$1.6 million. The Drivers License Bureau estimates its cost to be around half a million dollars. All of this comes up to around \$3 million for startup costs just for the State. That has nothing to do with the local governments that have to actually provide the services. And they have not yet estimated what their cost will be, though they know that they will be tremendous, mainly for postage. This law requires a great amount of communication with new voters and every 2 years to make sure voters are living where they are supposed to be living.

Last year, I was president of the National Association of State Election Directors and when we realized what the cost that this act was going to put on the States for postage alone, we went to the Congress and asked for some relief in the way of postage. We were able to get an amendment on the budget bill on the Senate side to allow first class postage at one-half rate. The House did not do that, but it was on the table when it went to conference and while all of you were not able to grant that for us last year, you did write in your intent language—I believe is the way you refer to it—that you realized that that was a very real problem that you would need to address in the future. I certainly hope that this year will be the year that you are able to do that.

We realize the fiscal impact is great not only to Florida but to all States, but we do welcome the opportunity to get every person who is eligible to be registered to vote to get them registered and we certainly hope that they will exercise the opportunity to vote at every opportunity after that.

Thank you for asking me to be here today.

[The prepared statement of Ms. Joyce follows:]



TESTIMONY BY  
DOROTHY W. JOYCE  
DIRECTOR, DIVISION OF ELECTIONS  
FLORIDA DEPARTMENT OF STATE  
BEFORE THE SUBCOMMITTEE ON HUMAN RESOURCES  
AND INTERGOVERNMENTAL RELATIONS  
HEARING ENTITLED  
"IMPACT OF UNFUNDED FEDERAL MANDATES ON  
STATE AND LOCAL GOVERNMENTS"  
FEBRUARY 26, 1994  
SANFORD, FLORIDA

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE...I AM DOT JOYCE, DIRECTOR OF THE DIVISION OF ELECTIONS OF THE FLORIDA DEPARTMENT OF STATE. I AM ALSO IMMEDIATE PAST PRESIDENT OF THE NATIONAL ASSOCIATION OF STATE ELECTION DIRECTORS.

I CHAIRED THE COORDINATING COUNCIL ESTABLISHED BY GOVERNOR CHILES TO HELP GUIDE ALL AFFECTED PARTIES THROUGH IMPLEMENTATION OF THE NATIONAL VOTER REGISTRATION ACT IN FLORIDA.

I WAS ALSO DESIGNATED BY THE GOVERNOR AND SECRETARY OF STATE JIM SMITH AS THE CHIEF ELECTION OFFICIAL FOR COORDINATING THE STATE'S RESPONSIBILITIES UNDER THE ACT.

THE SECRETARY OF STATE AND I HAVE ALWAYS SUPPORTED LEGISLATION WHICH WOULD INCREASE THE PARTICIPATION OF ELIGIBLE CITIZENS IN VOTING.

THE NATIONAL VOTER REGISTRATION ACT MANDATES THAT FLORIDA, LIKE MOST OTHER STATES, PROVIDE MAIL REGISTRATION, REGISTRATION AT DRIVER'S LICENSE OFFICES AND AGENCY-BASED REGISTRATION FOR FEDERAL ELECTIONS. HOWEVER, BOTH THE SECRETARY AND I ARE DEEPLY CONCERNED ABOUT THE LACK OF FEDERAL FUNDING IN THE NVRA'S MANDATES.

BECAUSE THE NVRA ONLY APPLIES TO REGISTRATION FOR FEDERAL OFFICE, FAILURE OF A STATE TO ENACT CORRESPONDING LEGISLATION WILL NECESSITATE TWO VOTER ROLLS: ONE FOR THOSE REGISTERING TO VOTE UNDER STATE LAW, AND WHO ARE ELIGIBLE TO VOTE IN ALL ELECTIONS FOR ALL CANDIDATES, AND A SECOND ROLL FOR THOSE WHO REGISTER UNDER THE TERMS OF THE NVRA BUT WHO MAY ONLY VOTE FOR CANDIDATES FOR FEDERAL OFFICE.

GIVEN THESE LIMITATIONS, TWO SETS OF BALLOTS WOULD HAVE TO BE PREPARED AND DISTRIBUTED WHEN FEDERAL CANDIDATES ARE ON THE BALLOT. IN ADDITION TO OBVIOUSLY INCREASING THE COST OF STATE ELECTIONS, THIS WOULD LIKELY RESULT IN CONFUSION, ELECTION-THREATENING ERRORS, AND DISENFRANCHISEMENT OF VOTERS. THEREFORE, THE SECRETARY AND I STRONGLY RECOMMENDED STATUTORY CHANGES IN FLORIDA TO AVOID DUAL REGISTRATION.

ALTHOUGH THE NATIONAL VOTER REGISTRATION ACT ALLOWS FLORIDA TO DEVELOP AND USE ITS OWN MAIL REGISTRATION FORM, IT MUST ALSO ACCEPT THE NATIONAL MAIL REGISTRATION APPLICATION FORM. SO WE MUST DISTRIBUTE BOTH NATIONAL AND STATE MAIL REGISTRATION FORMS THROUGH GOVERNMENT AND PRIVATE ENTITIES, AND MAKE SUCH FORMS AVAILABLE TO ORGANIZED VOTER REGISTRATION PROGRAMS.

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ALTHOUGH THE NATIONAL REGISTRATION APPLICATION FORM HAS NOT YET BEEN DESIGNED BY THE FEDERAL ELECTION COMMISSION, IT WILL INCLUDE, IN ADDITION TO THE ACTUAL MAIL APPLICATION, SPECIFIC INSTRUCTIONS AND ELIGIBILITY REQUIREMENTS FOR ALL 50 STATES.

IT IS ANTICIPATED THAT THE NATIONAL FORM WILL BE A LENGTHY BOOKLET. FLORIDA MUST PURCHASE THIS EXPENSIVE FORM FROM THE FEDERAL GOVERNMENT AND MAKE IT AVAILABLE ACROSS THE STATE TO ANYONE WISHING TO REGISTER TO VOTE IN ANOTHER STATE.

WE ESTIMATE THAT THE NATIONAL FORM WILL COST AT LEAST 25 CENTS EACH.

I HAVE SERIOUS CONCERN ABOUT THE UNLIMITED AVAILABILITY OF THIS FORM THAT THE ACT MANDATES WITHOUT FUNDING. FLORIDA COULD END UP SUBSIDIZING VOTER REGISTRATION IN OTHER STATES THROUGH REQUESTS FOR LARGE NUMBERS OF THE NATIONAL FORM FROM THE MANY GROUPS AND ORGANIZATIONS CONDUCTING NATIONAL CONVENTIONS IN OUR STATE.

TO STREAMLINE THE REGISTRATION FORM TO ADDRESS ONLY FLORIDA'S REGISTRATION NEEDS AND SAVE MONEY, FLORIDA WILL DESIGN AND USE ITS OWN MAIL REGISTRATION FORM TO THE GREATEST EXTENT POSSIBLE.

A STATE-SPECIFIC FORM WILL BE MUCH CHEAPER TO PRINT THAN THE NATIONAL FORM BECAUSE IT WILL ONLY CONTAIN OUR STATE'S VOTER QUALIFICATIONS AND INFORMATION, NOT THAT OF ALL 50 STATES.

ADDITIONALLY, A STATE MAIL REGISTRATION FORM COULD BE PRE-ADDRESSED FOR RETURN TO THE APPROPRIATE LOCAL SUPERVISOR OF ELECTIONS. THE DESIGN OF OUR FORM IS 8 BY 11 INCHES WITH DOUBLE PERFORATION AND A GUMMED SEAL. THE FORM WILL BE USABLE FOR NEW REGISTRATION, CHANGE OF ADDRESS, CHANGE OF PARTY AFFILIATION, AND CHANGE OF NAME. WE ESTIMATE THE COST AT 4 CENTS A FORM, COMPARED TO ABOUT 25 CENTS FOR THE UNIVERSAL FORM.

THE COMPOSITION OF FLORIDA'S POPULATION WILL REQUIRE AN ENORMOUS NUMBER OF THESE NEW FORMS TO BE PRINTED. ALTHOUGH FLORIDA HAS APPROXIMATELY 6.5 MILLION REGISTERED VOTERS, OVER 4 MILLION ELIGIBLE FLORIDA CITIZENS ARE NOT REGISTERED.

FLORIDA'S CITIZENS ARE VERY TRANSIENT, RESULTING IN MANY CHANGES OF ADDRESS. ADDITIONALLY, FLORIDA HAS A LARGE HISPANIC POPULATION THAT MUST BE ACCOMMODATED PURSUANT TO THE VOTING RIGHTS ACT OF 1965.

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IN ORDER TO COMPLY WITH THE NVRA MANDATES, THE ANNUAL COST TO THE STATE DIVISION OF ELECTIONS WILL EXCEED \$615,000. I ESTIMATE THAT THE STATE DIVISION OF ELECTIONS WILL REQUIRE OVER 8 MILLION STATE AND NATIONAL MAIL APPLICATION FORMS FOR THE FIRST YEAR, IN ENGLISH AND SPANISH. THIS WILL COST \$352,840. ANNUAL POSTAGE IS ESTIMATED TO BE \$162,718 FOR MAILING APPLICATIONS UPON REQUEST AND TO 1541 DESIGNATED DISTRIBUTION SITES.

ADDITIONAL COSTS WILL BE INCURRED TO STORE THE APPLICATION FORMS, ESTABLISH A TOLL-FREE HOTLINE FOR QUESTIONS AND COMPLAINTS, TRAIN THOUSANDS OF AGENCY PERSONNEL IN REGISTRATION ASSISTANCE, PROVIDE PUBLIC EDUCATION OF THE NEW REGISTRATION SYSTEM, EMPLOY ADDITIONAL PERSONNEL, AND FURNISH INCREASED TRAVEL.

IN ADDITION TO THE DIVISION OF ELECTIONS, OTHER AGENCIES TASKED WITH IMPLEMENTATION OF THE NEW LEGISLATION WILL INCUR LARGE COSTS.

THE DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES PROVIDES PUBLIC ASSISTANCE TO OVER 1 MILLION ADULTS WITH APPROXIMATELY 175,000 NEW TRANSACTIONS EACH MONTH. THE DEPARTMENT OF HRS HAS ESTIMATED ITS ANNUAL COST WILL INCREASE OVER \$1.6 MILLION. THE DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES, WHICH HAS CONTACT WITH AN AVERAGE OF 5.5 MILLION PERSONS EACH YEAR IN ITS DRIVER'S LICENSE OFFICES, ESTIMATED IT WILL NEED OVER \$350,000 TO PURCHASE ADDITIONAL PRINTERS.

THE FISCAL IMPACT ON THE OTHER AGENCIES THAT PROVIDE SERVICES TO PERSONS WITH DISABILITIES OR ARE OTHERWISE DESIGNATED UNDER THE ACT WILL BE IN THE TENS OF THOUSANDS FOR ADDITIONAL STAFF, RECORD KEEPING, EQUIPMENT, AND MATERIALS.

FURTHERMORE, THERE WILL BE A LARGE FISCAL IMPACT ON FLORIDA'S 67 COUNTIES. EACH COUNTY WILL HAVE TO FUND THE INCREASED EXPENSES INCURRED BY EACH SUPERVISOR OF ELECTIONS. THESE COSTS INCLUDE VERY HIGH POSTAGE EXPENSES WHICH WILL RESULT FROM THE NUMEROUS FIRST CLASS MAILINGS REQUIRED BY THE ACT.

ALTHOUGH THE ACT PROVIDES FOR REDUCED POSTAGE RATES, IN PRACTICE, THESE RATES ARE NOT PRACTICAL OR ARE UNAVAILABLE.

ADDITIONALLY, SUPERVISORS WILL BE RECEIVING AND PROCESSING MANY MORE APPLICATIONS, ESPECIALLY IN THE FIRST FEW YEARS OF IMPLEMENTATION.



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IN MY ROLE AS PRESIDENT OF THE NATIONAL ASSOCIATION OF STATE ELECTION DIRECTORS LAST YEAR, I WAS INVOLVED IN AN EFFORT TO GET AN AMENDMENT ON THE FEDERAL BUDGET BILL TO REQUIRE THE UNITED STATES POSTAL SERVICE TO ALLOW FIRST CLASS VOTER REGISTRATION MAIL AT HALF PRICE RATE.

WE WERE NOT SUCCESSFUL, BUT WERE TOLD BY THE CONGRESS THAT IT REALIZED THIS IS A MATTER THAT MUST BE ADDRESSED. WE URGE YOU TO PLEASE HELP US PURSUE THIS EFFORT AGAIN IN THIS YEAR'S BUDGET.

ALTHOUGH NOT EXPLICITLY REQUIRED BY THE NATIONAL VOTER REGISTRATION ACT, OUR COORDINATING COUNCIL RECOMMENDED THE ESTABLISHMENT OF A CENTRALIZED VOTER FILE. THE COUNCIL BELIEVES THIS TYPE OF REGISTRY IS ESSENTIAL TO THE EFFECTIVE IMPLEMENTATION OF THE ACT.

A CENTRAL REGISTRY OF VOTERS IS NEEDED TO PREVENT DUPLICATE AND FRAUDULENT REGISTRATIONS. THE ACT GREATLY EXPANDS REGISTRATION OPPORTUNITIES BY PROVIDING UNSUPERVISED MAIL REGISTRATION AND REGISTRATION WITHOUT THE PRESENCE OF A SUPERVISOR OF ELECTIONS OR A DEPUTY. AS A RESULT, TRADITIONAL SAFEGUARDS AGAINST FRAUDULENT REGISTRATION (OTHER THAN THE ATTESTATION CLAUSE) ARE ELIMINATED.

THERE WILL LIKELY BE TENS OF THOUSANDS OF DUPLICATE REGISTRATIONS DUE IN PART FROM OUR TRANSIENT POPULATION FROM INDIVIDUALS WHO RE-REGISTER AT THE DRIVER'S LICENSE OFFICE AND OTHER DESIGNATED AGENCIES TO GUARANTEE VOTING ELIGIBILITY. A CENTRAL COMPUTERIZED FILE CAN IDENTIFY AND VOID FRAUDULENT AND DUPLICATE REGISTRATIONS.

OUR LEGISLATURE REQUESTED COST ESTIMATES FOR INSTALLATION OF A CENTRAL VOTER FILE. WE PROJECTED THAT ACQUISITION AND ANNUAL OPERATING COSTS FOR A CENTRAL VOTER FILE WOULD BE AROUND \$4.5 MILLION FOR THE FIRST FOUR YEARS OF PHASE-IN AND \$979,000 PER YEAR AFTERWARD TO OPERATE.

AS YOU CAN SEE, THE FISCAL IMPACT ON THE STATE OF FLORIDA WILL BE GREAT. WHILE WELCOMING THE VALUABLE CONTRIBUTIONS OF THE NATIONAL VOTER REGISTRATION ACT, WE FIRMLY BELIEVE THAT WE CANNOT PROPERLY DO OUR JOB AS REQUIRED BY THE ACT WITHOUT ADEQUATE FUNDING TO COVER THE ADDITIONAL BURDENS CONGRESS HAS PLACED UPON OUR STATE. I COMMEND YOUR SUBCOMMITTEE FOR ITS EFFORTS TO REVERSE THE INCREASING TEMPTATION TO HAND DOWN UNFUNDED FEDERAL MANDATES.

THANK YOU FOR INVITING ME TO SHARE MY COMMENTS WITH YOU TODAY.

Mr. TOWNS. Thank you very, very much for your testimony.

We have been joined by the mayor of Orlando, the Honorable Glenda Hood. We are delighted to have you and, of course, we would be willing—actually what we have been doing is that we ask people to give their testimony within 5 minutes, but, you know, we know you are the mayor and we understand that.

Ms. HOOD. I think I can stay within 5 minutes, Mr. Chairman. Thank you.

Mr. TOWNS. Go ahead.

#### STATEMENT OF GLENDA HOOD, MAYOR, ORLANDO, FL

Ms. HOOD. Mr. Chairman and members of the committee, and especially our own Congressman John Mica, I thank you for holding this hearing to discuss the problems that all of us in local government are faced in complying with unfunded Federal mandates.

Let me just begin by asking the question, what is an unfunded Federal mandate? Well, it is a program or regulation that Washington requires local governments to implement and pay for. Most of the mandates come from Federal laws dealing with environmental issues such as solid waste disposal, clean air and clean water. The trouble is that these laws generate the programs and the regulations, but obviously they do not generate the money to pay for implementing them.

Over the past 12 years, the number of Federal regulations has more than doubled and ironically during that same time period, Federal funding to cities has dropped significantly. Some calculate that it has dropped by as much as two-thirds.

We are not opposing mandates in substance. The initiatives were felt important enough to mandate, so they should be there. But if you pass a law, there should be money following to pay for the implementation. It is really that simple as far as I am concerned.

Mandates are written to improve the quality of life, but actually they jeopardize the quality of life in local governments. The burden is shifted to the local level to pay for implementation and then we at the local level have no input whatsoever in the decisionmaking. We feel that there is no analyzing of the cost-benefit ratio and no tailoring of requirements to States and communities. In other words, no flexibility.

When the burden is shifted, local governments have no choice but to comply. We spend thousands and even millions of dollars on paperwork and we sometimes have to raise taxes to be able to pay for these. Our other choice is to limit or to cut services. Our choice to cut or limit services are from police protection, infrastructure and youth programs, just to name a few. Local government is the only one that provides these local services. Every \$1 that is spent on unfunded Federal mandates is \$1 less that is available for local government and, thus, \$1 less that I have for fighting crime, for building roads, for providing a clean safe environment for our youth to participate in productive activities.

Every city has horror stories about Federal mandates, including Orlando. I would like to share two examples with you. The Federal EPA ordered the city of Orlando to get rid of a herbicide the city was using because it had been declared carcinogenic. We asked the Florida Department of Environmental Regulation where we could

dispose of this and we were told that a company named City Chemical was the place that was permitted to handle the herbicide. Unfortunately for us, City Chemical failed to properly dispose of our herbicide and thousands of other gallons of toxic waste. The EPA ordered a clean-up of City Chemical and determined that the city's share of the clean-up would be \$6 to \$8 million, even though we only shipped 37 gallons of the herbicide to City Chemical. Those 37 gallons were  $\frac{55}{1000}$  of 1 percent of the total amount of chemicals at the site. Let me repeat that. Those 37 gallons were  $\frac{55}{1000}$  of 1 percent of the total amount of chemicals at the site. Well thousands of dollars in legal fees later, we were able to convince the EPA that our share of the clean-up should be significantly less than \$6 million, but still a cost that we had to bear because of unfunded Federal mandates.

Example two. The Federal EPA requires us to test our treated wastewater because it can be discharged into adjoining waters. Before it can be discharged into adjoining waters. One of the two major tests that we have to perform is to place a particular kind of water flea, or an insect into the treated wastewater to see if it can survive. These water fleas are part of the food chain for fish. So if the fleas survive, the fish will have something to eat. Well the problem is that these water fleas are very sensitive insects.

I am not within my 5 minutes. I am almost through.

Our Iron Bridge Plant requires that its treated water be chlorinated to meet certain standards. But you guessed it, the chlorine kills the water fleas. [Laughter.]

So at our expense, we have to chlorinate and then dechlorinate our treated wastewater. Ironically, the chlorine would dissipate by itself in  $\frac{1}{10}$  of 1 mile in the stream. But we have to spend \$100,000 to \$150,000 per year to make sure that these water fleas can exist in that  $\frac{1}{10}$  mile distance.

It costs our city some \$1.7 million a year to keep up with unfunded Federal mandates. Now let me tell you what \$1.7 million could buy. It could buy 19 miles of new curbs in my city; 38 miles of new sidewalks for young people to walk on from home to school, for senior citizens to use as they go to the grocery store or to places that they need to frequent, doctors' offices, et cetera; 98 acres of public park land that all of our communities desperately need or 26,153 potholes repaired. And those are just a few examples.

There are 52 city employees that I employ who spend their day keeping track of Federal mandates and our compliance with them; 52 employees. Now if I did not have to have those 52 people keeping track of our unfunded mandate responsibilities, I could hire 37 additional police officers, and these additional officers would help us meet a mandate from the people, the people of my city, who want to continue to have safe neighborhoods, safe streets, safe places of work, safe places for our young people in particular.

The National League of Cities, the National Association of Counties and the U.S. Conference of Mayors have teamed together to speak with one voice about the strain these unfunded mandates place upon our already limited local dollars. So if governmental reform is in order, and I know that Congress believes it is, I think



that we must begin right here with the elimination of unfunded Federal mandates.

Thank you.

[The prepared statement of Ms. Hood follows:]



**Testimony of**

**Glenda E. Hood  
Mayor  
City of Orlando, Florida**

**FEDERALLY UNFUNDED MANDATES**

**Before the Subcommittee on Human Resources and Governmental Relations  
of the  
Committee on Government Operations  
U. S. House of Representatives**

**February 26, 1994**

### Federally Unfunded Mandates

Mr. Chairman and members of the Committee, and especially our own Congressman, John Mica, thank you for holding this hearing to highlight the problems faced by local government in complying with federally unfunded mandates.

What is an Unfunded Federal Mandate? It is a program or regulation that Washington requires local governments to implement and pay for. Most of the mandates come from federal laws dealing with environmental issues, such as solid waste disposal, clean air and clean water. The trouble is that these laws generate the programs and the regulations, but do not generate the money to pay for implementing them.

Over the past 12 years, the number of federal regulations has more than doubled. Ironically, during the same time period, federal funding to cities has dropped significantly -- some calculate by as much as two-thirds.

We are not opposing mandates in substance. These initiatives are felt to be important enough to mandate so, if you pass a law, pay for the implementation. It is really that simple.

Mandates are written to improve quality of life, but they actually jeopardize the quality of life. The burden is shifted to the local level to pay for implementation and we at the local level have no input in decision-making. We feel there is no analyzing of the cost-benefit ratio, and no tailoring of requirements to states and communities - no flexibility.

When the burden is shifted, local governments have no choice but to comply. We spend thousands and even millions of dollars on paperwork and sometimes have to raise taxes to be able to pay. Our other choice is to limit or cut services. We must cut or limit services from police protection, infrastructure and youth programs. Local government is the only one that provides these services. Every dollar spent on unfunded federal mandates is one less dollar available for local government and, thus, one less dollar fighting crime and building roads or providing a clean, safe environment for our youth to participate in productive activities.

Every city has horror stories about federal mandates, including Orlando. Example one: The federal EPA ordered The City of Orlando to get rid of a herbicide the city was using because it had been declared carcinogenic. We asked the Florida Department of Environmental Regulation where we could dispose of it and we were told a company named City Chemical was permitted to handle the herbicide. Unfortunately for us, City Chemical failed to properly dispose of our herbicide and thousands of other gallons of toxic waste. The EPA ordered a clean-up of City Chemical and determined that the city's share of that clean-up would be \$6 million to \$8 million -- even though we only shipped 37 gallons of the herbicide to City Chemical. Those 37 gallons were fifty-five thousandths of one percent of the total amount of chemicals at the site. Thousands of dollars in legal fees later, we were able to convince the EPA that our share of the clean-up should be significantly less than \$6 million.

Example Two: The federal EPA requires us to test our treated wastewater before it can be discharged into adjoining waters. One of the two major tests is to place a particular kind of water flea -- an insect -- into the treated wastewater to see if it can survive. These water fleas are part of the food chain for fish, so if the fleas survive the fish will have something to eat.

Problem is that these water fleas are very sensitive insects. Our Iron Bridge plant requires that its treated water be chlorinated to meet certain standards. But -- you guessed it -- chlorine will kill these water fleas. So, at our expense, we have to chlorinate, then dechlorinate our treated wastewater. Ironically, the chlorine would dissipate by itself in 1/10th of a mile in the stream. But we have to spend \$100,000 to \$150,000 per year to make sure these water fleas can exist in that 1/10th mile distance.

It costs our city \$1.7 million a year to keep up with unfunded federal mandates. \$1.7 million buys 19 miles of new curbs, 38 miles of new sidewalks, 98 acres of public park land, or 26,153 potholes.

There are 52 city employees who spend their day keeping track of federal mandates and our compliance with them. If we did not have to have these 52 people keeping track of our unfunded mandate responsibilities, we could hire 37 additional police officers -- and these additional officers would help us meet a mandate from the people of our city who want us to continue to provide them with safe streets and safe neighborhoods.

The National League of Cities, National Association of Counties, and the U.S. Conference of Mayors have teamed to speak in one voice about the strain these unfunded mandates place on our already-limited local dollars. If governmental reform is in order, and I know this Congress believes it is, then we must begin with the elimination of unfunded federal mandates.

Thank you for allowing me the time to speak. I would be happy to answer any questions you may have.



Mr. TOWNS. Thank you very much for your testimony. You said a lot of things there that I really—no question about it, I agree with it and I am certain that other members of the committee agrees with. I think the only thing though that I would like to hear you talk about just a little bit more is how we might be able to coordinate some of these things. When I talk about coordinating, you have indicated that these mandates are needed and that we can send them down as long as we send the money with. But the point is that knowing, based on the way things are going, there is not going to be a lot of money sent. But the point is, when we do, we need to make certain that we do not create additional problems for people. So how do we sort of have the kind of communication at our level to be able to do these things without a lot of pain because the regions of the country are so different? I think sometimes we in Congress do not really recognize that or understand that. That is the reason why I am so eager and anxious all of the time to get out to field hearings because I think that this gives you a good flavor for what is happening in other parts of the Nation.

Ms. HOOD. Well, I will give you two answers to that. First of all, I think having dialog and communication and letting local governments be part of the decisionmaking process. Obviously, you could come up with some mechanism, some vehicle by which we could be involved in that decisionmaking process. And then I think you gave part of the answer as well. Different parts of the country are very different. Our communities are very unique. Making a cookie cutter approach in Washington or someplace else and telling us to abide by that one approach is not the answer. There needs to be flexibility and that should certainly come out of us participating in that decisionmaking process.

Mr. TOWNS. Thank you.

Ms. Joyce, you said something that I want to make certain that I get clear. If a State form costs 4 cents and a Federal form for voter registration costs 25 cents, what brings about the difference in cost?

Ms. JOYCE. Well probably because the universal form has to be prepared in a manner that it lists all qualifications for being able to get registered to vote properly in all the States—in 50 States, OK, as opposed to—Florida is a State that requires certain state-ments—this is something that is required by our State constitution—that you will support, uphold and defend the Constitution of the United States and the State of Florida. Not all States require that. So other States may have other things that are unique to them that Florida does not have. So you have to have all of these little nuances listed for all 50 States. You also have to have addresses for all of these 50 States where you mail that form in to. And so they are saying that it may be a form that looks similar to the IRS form, OK. It will not be that voluminous but it will be similar to that; therefore the cost of that is going to be just much more than the State unique form will be.

Mr. TOWNS. All right. Let me just follow up on the other part in terms of the conventions. If I understand it correctly, you are saying that if there is a convention held here and people from all over the country come to the convention and that they request forms from you to register, when they register, most of the forms will be

returned to you for your to disseminate them back to the various States?

Ms. JOYCE. No, sir. If those conventions—for instance, if there is a national convention of realtors in Orlando and if they request from—say they are expecting 5,000 people there, they request from me 5,000 of these universal forms, then I have to provide those. They will distribute these forms; the people can register to vote and they will find in this booklet that we are talking about the address of a person in their State that they write on the back of this form and mail it back to them. They would not mail those back to me, no, sir.

Mr. TOWNS. OK. Thank you. Thank you very much.

At this time, I yield to Congressman Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman.

Ms. Joyce, I have a question that doesn't necessarily deal with funding as such, but it is a mandate I have heard about. I wonder if you can tell me if it is accurate about elections. I have been informed that there is a Federal requirement that those who register to vote—come to county clerks' offices in our State and I assume to yours—may not be asked for any kind of identification to show that they are actually are who they say they are and live where they say they live as a result of a Federal mandate. Can you tell me if that is accurate, please?

Ms. JOYCE. Yes, sir, that is included in this act that we are talking about.

Mr. SCHIFF. We have talked about a couple. Which one?

Ms. JOYCE. The National Voter Registration Act.

Mr. SCHIFF. It was in that act?

Ms. JOYCE. Yes, sir.

Mr. SCHIFF. That was passed relatively recently?

Ms. JOYCE. In 1993.

Mr. SCHIFF. Right. Was that Federal law before then?

Ms. JOYCE. I do not know if it is in any one specific place, but I know that if you asked one person to provide proof of whatever, whether they are a citizen or to provide proof of where they live, you have to ask everyone that. You cannot just single out a certain people to—

Mr. SCHIFF. I do not have any problem with that. But apparently the law is now you cannot ask.

Ms. JOYCE. That is true. Although, you can write strategically across the form that the people are going to be signing that, you know, if you are a citizen of the United States you may register to vote. And if you signed this form that says you are a citizen and if you are in fact not a citizen, you may be prosecuted for perjury and various other things. You can put strong statements like that on there to deter people from trying to get registered if they are not in fact eligible.

Mr. SCHIFF. Commissioner Van Der Weide, you are the only county official I see on the list representing these panels. I just want to bring something to your attention if you have any involvement or your commission has any involvement with the National Association of Counties.

Mr. VAN DER WEIDE. Yes, we do. And there are some written comments here that I have carried with me today for the National

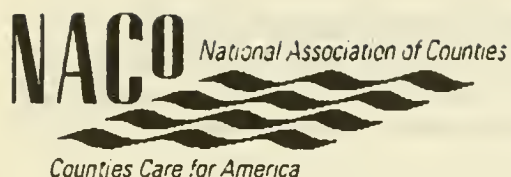
Association of Counties that is out in the lobby that we would like to submit for the record. There are 75 copies out there.

Mr. SCHIFF. I would ask unanimous consent, Mr. Chairman, that a copy of those comments be made part of the record of this hearing.

Mr. TOWNS. Without objection, so ordered.

[The information referred to follows:]





## FACT SHEET

### 1994 LEGISLATIVE PRIORITY

## UNFUNDED FEDERAL MANDATES

### *What are unfunded federal mandates?*

Federal laws and regulations that impose costly requirements on state and local governments without giving them the financial support needed to implement the requirements.

### *What are some examples of these mandates?*

The Underground Storage Tank Law, Clean Air Act, Clean Water Act, Subtitle D of the Resource Conservation and Recovery Act, Safe Drinking Water Act, Endangered Species Act, Superfund, Americans with Disabilities Act, Fair Labor Standards Act, Davis Bacon Act, Arbitrage and the Immigration Act.

### *Does NACo Oppose these Mandates?*

NACo supports the aim behind these mandates but opposes the federal government funding them out of state and local budgets.

### *How do these mandates affect counties?*

Each time a new unfunded mandate is enacted, counties must raise taxes and/or cut local services to pay the cost of implementing it. Every local dollar spent on a federal mandate is one dollar less in county budgets to fight crime, improve education, provide public health services and enhance transportation services.

### *Doesn't federal aid more than offset the cost of unfunded mandates?*

- No. According to data provided by the U.S. Census Bureau, all counties received \$4.8 billion from the federal government in 1978, which accounted for 10.2 percent of their revenues. By 1991, federal aid to counties declined to \$3 billion and accounted for only 2.2 percent of all county revenues.
- According to the most recent *Mandate Catalog* published by the National Conference of State Legislatures (NCSL), 185 mandates have been imposed on state and local governments. Historically, according to a recent study by the Advisory Council on Intergovernmental Relations, 27 mandates (many laws included multiple mandates) were enacted during the 10-year period between 1981 and 1990. This represents 75 percent of the total number (36) enacted over the 50-year period between 1931 and 1980.

- According to a 1993 NACo study, counties spent an estimated \$4.8 billion on just 12 mandates (see list in "examples of mandates") in fiscal year 1993. They will spend an estimated \$33.7 billion on these mandates over the next five years. And, on average, they will spend an estimated 12.3 percent of their locally raised revenues on these mandates each year.
- Despite the facts mentioned above, 156 new mandates have been introduced and are currently pending in Congress according to *Mandate Watch*, a bimonthly publication of NCSL. In most cases, these bills do not include an assessment of the fiscal impact on state and local governments.

### ***How do unfunded mandates affect local priorities?***

They are imposed on states and localities without consideration of their priorities, budgets or capacity to implement. Congress enacts laws to address national priorities but demands that state and local governments raise the revenues to implement them even if it means eliminating or cutting back on local priorities that address the mandate of the voters.

### ***What's wrong with using property taxes to fund national priorities?***

County revenues are derived primarily from property taxes which, in many cases, are limited by state law. While revenues vary greatly from one county to the next, in all cases they are collected to address limited local needs. As for spending, counties are required each year to spend no more than they take in. Federal revenues are derived from a broad tax base and yet, federal spending usually exceed revenues. For 1993 the deficit was \$255 billion and the national debt climbed to \$4.5 trillion.

### ***What advantage is there for members of Congress to shift the cost of mandates to states and localities?***

Members of Congress can take credit for passing a law and avoid being held accountable to taxpayers by shifting the financial responsibility for implementing it to states and localities. State and local officials must face angry taxpayers for their decisions on how to fund these mandates. As long as members of Congress can dodge accountability for funding new laws, there will be little or no incentive for them to limit the number or be frugal when considering mandates.

Mr. SCHIFF. What I want to bring to your attention though, is the National Association of Counties has generally speaking joined the crescendo opposed to unfunded Federal mandates. I feel that there is a situation where to be politically correct, they reversed themselves and I just want to tell you about it. I am referring to what is commonly known as the Brady bill, H.R. 1037, I believe was the number. I may be mistaken about the exact number, but I am sure you know what I am talking about. As written and as passed by the Congress and as signed into law by President Bush, the bill says that there will be a 5-day waiting period for the purchase of a handgun during which time the local police or sheriff are ordered to do a background check at their expense to determine if such individuals in fact are eligible to buy a firearm. Now there is actually a debate about whether checking everybody who buys a handgun in fact will really reveal criminals or will take police away from looking at the real criminals. I know different States, including Florida, have similar laws. But the point is, this was a national unfunded mandate and if the—and my view was, if the Federal Government felt this was a productive use of police time, as we have been discussing here all morning, why does the Federal Government not pay for it. The fact that the Federal Government was not willing to pay for it indicated to me some real reluctance in the belief of its efficiency as opposed to its political usefulness.

Now the point I am getting at is the National Association of Counties supports the Brady bill after telling everyone that they oppose unfunded mandates. Now, I would agree that there are times, and I think that has been conceded here today, there are times where there are national Federal policies where one can agree that, you know, there may be costs to State and locality. The reason they gave me—I cannot believe that was 5 minutes quite that fast. I will go faster. [Laughter.]

Mr. TOWNS. Do not worry about it. Go ahead.

Mr. SCHIFF. OK.

I just want to make this point. I asked them about that and the answer they gave me was not a, well this is an exception which for good reason we support. The answer they gave me was, well, since this is was a mandate as to what you have to do but not how you have to do it, we do not think this is an unfunded Federal mandate. Now that is absolute nonsense.

Mr. VAN DER WEIDE. I agree with you. In fact, Congressman, I think the Brady bill is a prime example of the lack of flexibility when a mandate comes down from Congress to either the State or the community. What we are finding ourself is that we are in a reactionary mode. Not only are we in a reactionary mode, it is a matter of interpretation. Interpretation could cost us considerable additional employees just to interpret the regulations, even if we do agree with them. Even if you mandated it and sent the money with it, the matter of interpretation is a major problem at the local level and the smaller local level you go to, the more of a problem it is. And then compliance—like the mayor said, the compliance can be a major hassle which also causes additional employees.

Mr. SCHIFF. Well my point is limited because of the subject nature of this hearing to the unfunded mandate idea. I am merely pointing out that in my judgment where political correctness en-



tered into the situation, the National Association of Counties did a 180 degree turn. That would concern me if I were a county official as to what they are actually saying on behalf.

Mr. VAN DER WEIDE. Well, we do not necessarily agree with every issue that—

Mr. SCHIFF. I understand. I had a chance to share that with you and I wanted to take that opportunity. [Laughter.]

Mr. VAN DER WEIDE. I appreciate it.

Mr. TOWNS. I think the mayor wants to respond.

Ms. HOOD. I would like to respond to that as well. If you will remember, I said that the National League of Cities, the U.S. Conference of Mayors and the National Association of Counties had come together to speak in a unified voice about this. There are also other organizations. We worked with the National Governors Association, the National Conference of State Legislators and we have had this very same discussion quite honestly at the national level with this task force we have pulled together. But I think that indicates that what we all need to do is, we need to have some further dialog and we need to work out some of these dilemmas and these conflicts that we are seeing. We recognize that fact just as the commissioner said. And when we are starting to question these things; when we are starting to see these conflicts, I think it is an even stronger statement that we need to all be part of the decisionmaking process.

Mr. SCHIFF. Let me say, Mayor, I think your example stemming in this case from the EPA and chlorination and \$1.7 million spent to ensure  $\frac{1}{10}$  of 1 mile of freedom from chlorination, if I understood that—

Ms. HOOD. It is \$100 to \$150,000 per year. \$1.7 million was total for the city of Orlando.

Mr. SCHIFF. But the same point is being made. I think the idea of Federal policy, at times, being established for a Federal—a national necessity that may in fact involve costs on State and local government I think can be defended at certain times on a broad national policy. But I think we are getting into total micromanagement here. I think we are getting into total micromanagement of Federal agencies coming down—I am using this example from the EPA, but I do not mean to pick on the EPA. Of Federal agencies coming down and trying to control the daily activity of city government and county government and State government. I think that is far beyond I think even the philosophical role of the Federal Government at times. And more significantly, if the Federal Government can justify it, there are points now where the Federal Government ought to be paying for it if they think it is that important to accomplish. I think you have given us examples of how we have just come too far.

Thank you, Mayor.

Ms. HOOD. Thank you.

Mr. SCHIFF. I want to thank the panel. I yield back, Mr. Chairman.

Mr. TOWNS. Thank you very much.

I would like to yield to Congressman Mica.

Mr. MICA. First of all, I do want to take a moment and thank both the chairman of our County Commission and the mayor of Or-

lando for their leadership on this issue. I recall that you participated in an unfunded mandate stay which certainly brought to the attention I think of the country and the Congress for the first time in a unified fashion the effect of unfunded Federal mandates. I remember submitting for the record a copy of the Seminole County Commission resolution to this subcommittee at a previous hearing and how well the mayor illustrated—I think on that day, did you not have lined up a row of, was it police officers?

Ms. HOOD. Well, I had my 57 employees that take care of compliance with unfunded Federal mandates and then I had the 37 police officers that I could have hired come into the picture with me just to give an illustration.

Mr. MICA. That was a very graphic illustration. I think it was in our local——

Mr. TOWNS. I should say it was. [Laughter.]

Mr. MICA [continuing]. Papers. You certainly did an excellent job too in illustrating from a practical standpoint the impact of some of these edicts from Washington.

I have a couple of questions. To go back to your herbicide point. That firm was recommended by EPA——

Ms. HOOD. Yes.

Mr. MICA [continuing]. For the cleanup task?

Ms. HOOD. It is my understanding that there are only certain businesses, certain firms that——

Mr. MICA. And they were on an approved list?

Ms. HOOD. Yes, they were on an approved list.

Mr. MICA. And what is the status of the six—or is it five to——

Ms. HOOD. The cost, the final cost?

Mr. MICA. Your cost is \$6 to \$8 million?

Ms. HOOD. Yes.

Mr. MICA. What is the status of that?

Ms. HOOD. Well, as I stated, we sent through extensive legal sessions with very high legal fees and it was resolved at something less than \$6 million. But it was still much higher than the equivalent of the 37 gallons and the percentage of the total amount of toxic waste.

Mr. MICA. Infinitesimal.

Ms. HOOD. Yes.

Mr. MICA. Let me ask you another question. Is there not a major pollution problem now? It is the substance TCE, is it?

Ms. HOOD. Yes.

Mr. MICA. In the city of Orlando?

Ms. HOOD. Yes.

Mr. MICA. Is there any requirement from the Federal level that the city undertake some remedial action and what is the status of that?

Ms. HOOD. We are not working with the Federal Government this time. This would go into the State and we are working with the Department of Environmental Regulation at the State and there has not been any conclusion to that. There has been a study ongoing. They have gone into various sites and properties within the area where the TCE has been determined to exist and there has been no conclusion as to whose responsibility or who ulti-



mately, or how ultimately we will rid the downtown area that is exposed to this TCE.

Mr. MICA. What if that were designated as a Superfund cleanup site? What would happen then?

Ms. HOOD. Well, I suppose that could be of help to us, but I do not really know the details, Congressman, as far as if that is even a possibility. Because I think until we get this study back from the State, right now I believe that their feeling is that it is coming from some—maybe one or two private individuals and—I just do not know the answer to that to be perfectly honest. Maybe I should ask you, would it help us to—

Mr. MICA. I am not sure if you want the Federal Government involved in it because—

Ms. HOOD. That is probably my hesitancy. I am afraid it might complicate it. It is complicated enough.

Mr. MICA. But I wonder with all these other mandates on you as far as clean water and things of that sort, and we have the Clean Water Act which is now shaping up to be probably the most expensive mandate we have ever seen on local governments, I think it is going to cost somewhere about \$3.6 billion and that only is the impact on 314 cities.

Again, I thank you for your—both of you for your leadership on this issue. I have sort of a concluding question if I may with Ms. Joyce. You had mentioned the cost—I have never heard these figures before. But I think it was an excellent job of the breakdown. It is about \$3 million that this legislation cost us. You said that was to the State level. You mentioned the Drivers License Bureau, HRS Public Assistance, then your bureau was \$650,000, plus local government. Is there any estimate as to the impact of dollars on local government?

Ms. JOYCE. No, sir, there is not. And the reason there is not is because they know that they are going to have to have some computer enhancements, both hardware and software. They know that all the costs to do all of the first-class mailings that are required will be tremendous, particularly in the larger jurisdictions such as Orlando, St. Petersburg, West Palm Beach, Miami, and Jacksonville where you have a great number of people. And what is the big unknown in this is how many people are going to register to vote when they go to one of these public assistance agencies or to the Drivers License Bureau. You know, they may not even remember that they are already registered to vote, and they will go ahead and register again. Then that election official has to go through the same gyrations that they would with someone who is not registered to try to enter them into the system. If they are already registered—perhaps they have moved from where their other address is, so this election official has to communicate with that person to say do you really live where you say you live or do you live where I have you on my records? And then once you get these things complete, you have to do a disposition notice, let them know if they are in fact registered or not. And then like every 2 years, you have to do a verification with the voters to be sure that they still live where they say they live and that they are still eligible to be a registered voter.



Mr. MICA. The only other question—and I will conclude with this—is, you have, I would imagine, a National Association of Supervisors—

Ms. JOYCE. Yes, sir.

Mr. MICA [continuing]. State election officials?

Ms. JOYCE. Yes, sir.

Mr. MICA. Have they compiled any statistics on the overall national impact if it is \$3 million for Florida, plus local government costs? Do you know is there any statistics or could you provide the subcommittee with some of that information?

Ms. JOYCE. I will surely try to get that for the subcommittee and be happy to submit it.

Mr. MICA. Thank you.

I yield back. Thank you.

Mr. TOWNS. Thank you very much, Congressman Mica.

Let me thank all three of you for your testimony. I think that it was very informative. I agree with you that we have a lot of work to do, but we are from the government and we are here to help you. [Laughter.]

I am sure that will go well with you this morning. [Laughter.]

Thank you so much for your testimony.

Ms. HOOD. Thank you very much for the opportunity. I would love to comment on that, but I better not.

Mr. TOWNS. I know. [Laughter.]

Your time is up. [Laughter.]

Your time is up, Mayor. [Laughter.]

At this time, we would like to call to the witness table Dick Kelton, assistant county manager for development and operations, Volusia County and Sharon Hartsell, president of Florida School Boards Association. I am sure by now that you are sort of familiar with the rule that your entire testimony will be included in the record. We would like for you to summarize within 5 minutes, which will allow the members of the panel an opportunity to raise questions with you.

So why don't you start, Ms. Hartsell.

#### STATEMENT OF SHARON HARTSELL, PRESIDENT, FLORIDA SCHOOL BOARDS ASSOCIATION

Ms. HARTSELL. Thank you.

Mr. Chairman and Congressmen Schiff and Mica, we really appreciate the opportunity to share our concerns and our problems because they are all of our problems. I am not going to spend a lot of time with the words that I submitted to you in writing, but I would like to spend the time telling you some stories that relate to those words.

I was really delighted to hear you all and our local Representative Constantine talk about the fact that if it is a good idea, it needs to be paid for because we take it from you all sometimes and we also take it from Tallahassee frequently.

I would like to pick up and talk a little bit about the immigration issue because it is an issue that is very, very important to the school boards in Florida. There are 2.1 million students in Florida and last year in five counties alone there were almost 100,000 immigrant students. I cannot tell you how many of those were legal

or illegal. We serve whoever comes to our doors and we believe that that is our role, to educate children whoever they are. The cost associated with both the Federal law and the Federal regulation—immigration regulations and the court based decisions are very much involved with those things.

In the written testimony I gave you, I gave you a figure of excess operational cost that I would like to update. The latest figures indicate that there is in excess of \$650 additional excess dollars in operational cost, not the lower figure that I had submitted to you. And that assumes that that immigrant child is just a normal kid. The fact is, we know that many of those students come to us with very little formal education before they come. Many of them qualify for the exceptional student categories that are much higher cost.

Let me give you some Orange County figures. That is Orlando. In Orlando alone—in Orange County alone over the last 10 years the student population has increased about 40 percent. The minority population has increased 100 percent. The immigrant population has increased 685 percent. We are talking a considerable operating issue, not to mention the infrastructure cost.

In Florida, we know that our per student dollars are not increasing, in fact, we are still being funded at or below a 1991 per student rate. Broward County is looking at 500 immigrants a month. That is about an elementary school. Dade County is looking at over 1,000. That is equivalent to a middle school. We are talking about a lot of capital outlay dollars just to house the students that come to our doors. Dade County estimates that their ultimate cost will be something like \$533 million for the infrastructure costs alone.

There is no question that this is a big task. It is not just our problem. There are any number of other States that have exactly the same problem. The obvious ones like California and Texas and New York and New Jersey and the lesser ones like Minnesota where the Vietnamese population creates a bigger and bigger pot, and Illinois and Massachusetts and even the Virgin Islands are receiving a great number of immigrants from areas. The Haitian immigration to the Virgin Islands is creating quite a problem for those school board members.

I had mentioned some of the other issues and you all have talked a lot about some of the environmental issues. What I would like to talk about a little bit is not only the dollar amount associated with it, but the emotional factor. When you get parents uptight about their kids, you are going to deal with the problem. When we saw asbestos, we know that, yes, we were not reimbursed for those costs, but more important was the emotional problems that came with people being worried about their kids. Now we are told that asbestos may not be a big risk factor for children, but we have been dealing with people worried about their kids for quite a while.

I see my light is on, and I would like to be able to tell you about Melrose Elementary School in Pinellas County who is looking at a \$2.5 million cleanup cost with regard to lead that had been detected better than a foot below the ground. There was no water contamination. Every child was tested; no children were effected. There was no water or soil contamination. There was some minor contamination better than a foot below the surface, but because the DEP wasn't sure what the risk was, those children have spent most



of the year in double sessions. There has been a major relocation and a major abatement effort going on because people care about what happens to their kids. There is considerable question about what the risks of lead is to children and what risks are important and what are not. Pinellas County is looking at \$2.5 million at what was determined by the DEP as to be being minor risk, but nonetheless needed to be looked at.

This morning, I gave you a copy of a letter that I sent to the representatives from my districts; Mrs. Brown, Tillie Fowler, Senator Graham and Senator Mack. It had to do with the ADA requirements and those costs that are associated with that. In my county, we did an overall assessment that put the additional costs at better than \$3 million to meet that requirement. That is not every space. That is only every program. And putting that in perspective, it is not because St. Johns County has not been concerned about the handicap access. In fact, my associate superintendent for operations and facilities is a handicapped individual, having lost a leg as a young man. So we are very sensitive and have spent probably \$200 million over the last 8 years to upgrade our facilities for all sorts of codes, including previous handicap access. This is additional dollars that we had previously not been aware of.

I will—if you would like to ask me later questions about exceptional student costs, I would be glad to discuss that unfunded mandate with you also.

Mr. TOWNS. Thank you very, very much, Ms. Hartsell.

Mr. Kelton.

[The prepared statement of Ms. Hartsell follows:]



REMARKS TO SUBCOMMITTEE ON  
HUMAN RESOURCES AND INTERGOVERNMENTAL RELATIONS

BY  
SHARON HARTSELL, PRESIDENT  
FLORIDA SCHOOL BOARDS ASSOCIATION

## IMPACT OF UNFUNDED FEDERAL MANDATES ON STATE AND LOCAL GOVERNMENTS

### UNFUNDED MANDATES

I am pleased to have the opportunity to address the issue of unfunded mandates. There has been a growing trend for both the Federal and State governments to pass legislation that must be implemented at the local level. It is far too easy to pass the cost of these new laws to local government. With a limited number of tax dollars available, each time a mandate is passed on to local government, it must be funded at the expense of other priorities that may be more pressing for that community. When lawmakers don't have to find the money to pay for the new program, they seldom worry whether the expenditure is the best use of limited dollars or whether the cost benefit analysis warrants the expenditure at all.

### IMMIGRATION--Florida's Colossal Unfunded Mandate:

The public education system of Florida is dealing with huge expenses associated with immigration. There are 2.1 million students enrolled in the 67 school districts in Florida. In five of these alone, there were 94,674 immigrant students being served in 1993. We need help from Congress to meet the additional costs as they are mandated by federal law, federal regulation or have been imposed by federal courts based on interpretation of law. Let me outline some of the issues.

\*It has been calculated that it costs approximately \$474 more to educate an immigrant student than a native born student.

\*In 1993, the cost to the 67 school districts in Florida, for court ordered teacher training, was approximately \$200 million.

\*In Florida, the problem is exacerbated because Florida's education budget is now finite; there are no new dollars. The state dollars per student in 1994 are about the same as they were in 1991. Meeting the needs for our immigrant students can only be done by pulling dollars away from other programs.

\*Providing classrooms to house these students continues to be a monumental challenge. At a time when State building dollars are decreasing, immigration adds to the overcrowding and accelerates the need for new schools putting a greater burden on local property taxes. To give an example, Broward County is gaining 500 new students per month and Dade County is receiving about 1,156 new students each month. This is equivalent to an elementary school each month in the former and a middle school a month in the latter. Dade County alone predicts a long range cost of \$533 million resulting from immigration.

\*These students come to the classroom speaking 55 different languages and are typically not even fluent in their home language (many have never attended school) presenting quite a challenge for the classroom teacher.

\*The challenge does not end with language, many of these students qualify for exceptional education and are in need of health and other social services. Some have come straight from the jungle, carrying a gun and pose interesting social problems.

Florida is not the only state to be wrestling with this issue, we are joined by a growing number of states with rising immigrant populations.

#### ASBESTOS, LEAD, RADON, INDOOR AIR QUALITY

In 1986, the Asbestos Hazard Emergency Response Act was signed into law. School districts were required to conduct inspections for asbestos, develop management plans and perform extensive abatement work. The cost for this has been estimated at \$6 billion nationwide, with only a small portion provided by either state or federal governments.

The dollar cost has been burdensome, but more costly has been the emotional burden associated with the process, to parents, to teachers, and to school district personnel. We now are told by many scientists, in the risk assessment field, that asbestos is a very minor risk to children, if it is a risk at all. We are told that funding has been eliminated because of a need to set priorities among environmental hazards.

Will we then be relieved of this burden? How do we relieve the anxiety of our parents? Will new areas of concern arise, perhaps without evidence that a problem exists? Will we again be forced to take precious dollars from the classroom or will these mandates be accompanied by funding?

Proposals concerning lead testing, radon testing, and air quality, all present similar scenarios. Testing and reporting is required but not the abatement that is sure to follow. It is hard to believe that after raising a concern among our parents, we will not be compelled to address the issue. As there is considerable debate as to the hazard, it would seem to be prudent to balance the risk to our children and the substantial costs involved before we again raise a costly red flag.



### SPECIAL EDUCATION

The Individuals with Disabilities Education Act was originally enacted in 1976. This dramatically effecting the delivery of education to students with disabilities in this country. Currently, 5 million students fit the federal definition of disability. This mandate covers a wide range of educational and related services paid for at local expense.

The estimated cost of special education is 2.2 times the national average per pupil cost at about \$14,000 per child. It is not uncommon for the cost of a child requiring certain placements to be \$80 - \$100,000. **Currently, the 1994 year, there are approximately 50 Florida children whose out-of-state resident care costs Florida taxpayers \$23 million.**

The ability of a school district to pay for these services was not considered prior to the mandate to provide the service. Districts must meet this requirement despite other priorities or needs.

IDEA committed the federal government to pay 40% of the excess cost, current appropriations provide 7% or a shortfall of \$10 billion.

### NATIONAL HEALTH CARE

There can be no debate as to the benefit to children by having access to health care. The connection between good health and educational achievement is obvious.

However, there are elements to the Clinton administrations' plan and substitute plans that are of concern to school districts:

\*It is not clear how ALL students will receive care. Illegal immigrants would not be entitled to non-emergency care.

\*There is concern that the INCREASED COST will be borne at the local level taking money from the classroom.

\*Districts would be required to pay 80% of the benefits for every employee and family (now a collective bargaining issue).

\*The burden of paying for benefits for part-time employees (as defined at 10 hours a week would create serious problems. This would especially be true about substitute teachers).

\*The payroll cap now proposed at 7.9% would be unavailable to public employers as it is to private employers.

\*There is a prohibition against government employers creating their own alliance, eliminating self insurance.

We know that the debate on this issue has just begun, but whatever the outcome, the possible mandate exists and we are hopeful that the voice of the education community will be included in the debate. As the employer of the greatest number of employees in most communities, school board concerns must be addressed.

I have not attempted to cover all the issues which come under the unfunded mandate umbrella. I know that there may always be debate about balancing good public policy and paying for that policy as it is implemented. If there is one thought I can leave with you, it is to remind us all of a very old LAW, one we learned when we were very young.

"FOR EVERY ACTION THERE IS A REACTION"

I ask that we all be more mindful of the reaction from each of our actions.

BIO FOR  
SHARON HARTSELL

Mrs. Sharon Hartsell of 1471 Fruit Cove Road, Jacksonville, Florida, has been a long-time advocate of education. She was first elected to the St. Johns County School Board in 1986 and is currently serving as Chairman of the Board.

Mrs. Hartsell is also the current President of the Florida School Boards Association (FSBA), a group she has been involved with since 1989. Other state level service includes a four-year term on the Florida Commission on Educational Reform and Accountability.

The FSBA President has been active in legislative and school reform issues on both the state and district levels for the past several years. In addition to various other local positions, she was a member of the St. Johns County District Leadership Team for School Improvement during 1991-92.

Mrs. Hartsell is also very involved in her community and has served as a coach, scout leader and Sunday School teacher, among other civic interests. She was married to the late Dave Hartsell for 28 years and has two grown children, Mike and Kim.



**STATEMENT OF DICK KELTON, ASSISTANT COUNTY MANAGER  
FOR DEVELOPMENT AND OPERATIONS, VOLUSIA COUNTY, FL**

Mr. KELTON. Thank you, Mr. Chairman, Congressman Schiff and Congressman Mica. On behalf of Volusia County, I appreciate being asked to participate in this discussion this morning.

With regard to the specific questions that you have raised, Volusia County has joined with the League of Cities and the National Association of Counties in opposing unfunded Federal mandates. These mandates, whether in the form of new Federal rules and regulations or services passed on to local governments impact the local taxpayer and they impact them to a measurable degree.

In Volusia County, unfunded mandates from the Federal and State levels amount to millions of dollars, and depending on how we calculate it, it may represent as much as a third of our general fund budget.

The subject of unfunded mandates is a complex one as you know. It is easy for local government to stand before a committee such as this and go on record in opposition to unfunded mandates. However, we believe there is a lot to be considered and that there are no quick and simple answers or conclusions.

Let us look at what has happened to local government in recent years. Probably the phrase the buck stops here is most applicable. Unquestionably the Federal Government saddled with enormous responsibilities and incredible debt has shifted responsibilities to both the State and local level. In turn, our State governments are in much the same position and they too have shifted responsibilities, programs, rules and regulations to the local level. For local government there is nobody to turn to except the taxpayer and the local official is left in the position of having to fund those good programs—and I think we would all agree that many of them are good. Most of them are good. The option that local government has is to raise taxes in order to support that. So the new tax, “read my lips philosophy” that we have heard at the Federal level and at the State level does not work when those mandates get down to the local level and we must comply.

Here in Florida with our rapid and continued population growth, we have never received an equitable return on the dollars that flow to Washington. Historically, we receive only a portion of those funds back, and a much lower proportion than most of the other major States in this country.

In Volusia County’s case, we have a very low per capita income compared to the rest of central Florida. Those of you from outside of this area, we are a county of about 400,000 people just across that lake that you passed coming in here or may have seen. Our citizens are property tax strapped. We cannot turn to them and keep raising taxes to fund mandates coming from other folks regardless of how good they are.

Does this mean there should be no more Federal mandates? No, we do not believe so. Obviously there are matters of national concern which need to be legislated at the national level. Certainly equal rights and endangered species would fit into these categories. Would our southern schools have been integrated if the Federal courts and government had not mandated that this be done?

Perhaps the most recent example is the ADA legislation. Of course the thrust of ADA is civil rights and equal access to public facilities and services for everyone, and we all support those goals and objectives. However, ADA is also a good example of how Federal mandates impact local government. Financial implications of ADA in Volusia County exceed \$3 million just for the retrofit of the buildings, the physical buildings that we own. There are some 268 of those ranging from small concession stands at our parks to our major court facilities and county administration centers. The cost of compliance with ADA is in the millions.

In terms of accessibility and services for the handicapped however, our government probably is ahead of many local governments. I am not suggesting that the cost factors be a blockade to doing what is right. If that were the case, many needs would be unmet because local governments would fail to act with lack of money being the excuse.

The premise is that our Federal Government will continue with the trend of burdening local governments without the money to carry out these mandates, then Congress should allow local governments more flexibility with regard to the rules, the regulations and the timeframes for compliance. We believe that we can obtain more success in meeting your objectives and meeting national policy objectives when you provide the carrots to go with the objections rather than the sticks. If these are truly items of national interest—and in most cases we believe that they are—then we need the support and the help and the financial assistance to help implement them. The phrase that the buck stops here is applicable. Our local officials have no one else to pass the buck to. They are the ones that must raise the taxes to support what you and our State governments want to do in terms of national objections. So we ask for your help in dealing with mandates and particularly providing funding sources to help us do that.

Thank you.

[The prepared statement of Mr. Kelton follows:]

## UNFUNDED FEDERAL MANDATES

By RICHARD KELTON

Assistant County Manager for Development and Operations  
Volusia County, Florida

I appreciate being asked on behalf of Volusia County government to participate in debate of this important question.

As to the specific question, Volusia County has joined the Florida League of Cities and National Assn. of Counties, in opposing unfunded federal mandates. Unequivocally, mandates--whether in the form of new federal rules and regulations, or services passed on to local governments--impact local taxpayers to a considerable degree.

In Volusia County's case, unfunded mandates from the federal and state levels, amount to millions of dollars and, depending on how you calculate it, as much as 30 percent of our general fund budget.

mandates is a complex one. It's easy for local

But, the subject of unfunded mandates is a complex one. It's easy for local government to stand before a committee such as this and go on record in opposition to unfunded mandates.

However, we believe there's a lot to be considered and quick and simplified conclusions provide shallow solutions.

First of all, let's look at what's been happened to local governments in recent years. The phrase "the buck stops here" is applicable. Unquestionably, the federal government, saddled with enormous responsibilities and incredible debt, has shifted responsibilities to both the state and local levels.

In turn, our state governments, are in much the same position. And, they too, have shifted responsibilities, programs, rules and regulations to local governments.

For local governments, there's no one but their local citizens to pass on the cost of these mandates. As a result, local governments throughout the country, and of course, here in Florida with its rapid and continued population growth, are in serious financial condition without the wherewithal, resources and public tolerance to meet the task at hand. without the wherewithal, resources and public tolerance

In Volusia County's case, we have a relatively low per capita income. Our citizens are property tax strapped.

Does all of this automatically mean that there should be no more federal mandates? Of course not. Obviously, there are matters of national concern which need to be legislated at the national level.



Equal rights and endangered species, for example. Would southern schools have been integrated if the federal courts and government not mandated this be done? Perhaps the most recent example is the Americans With Disabilities Act. The thrust of ADA is civil rights and equal access to public facilities and services for everyone.

However, the Americans With Disabilities Act perhaps is a good example of how federal mandates impact local governments. There's no question this is a good law. But the financial implications are great.

In Volusia County's case, the cost of compliance with the ADA is in the millions. And, I believe, in terms of accessibility and services for the handicapped, our government probably is ahead of many local governments. Nevertheless, we're incurring a heavy expense.

Am I suggesting that cost factors be a blockade to doing what's right? Obviously not; if that were the case, many needs would be unmet because local governments would fail to act, with lack of money being the excuse.

What I am saying is that ADA probably should have been partially funded at the national level where the cost of compliance could be spread more equally. It is generally easier to gain acceptance with the "carrot" than with the "stick". At the crux of this subject is the fact that our national government is in dire financial condition which means that nationwide responsibilities are being passed on to local government. It should be noted that local governments, unlike the federal government, do not have the option of deficit budgets.

If the premise is that our federal government will continue with the trend of burdening local governments with responsibilities without the money to carry out these mandates, then I suggest Congress allow local governments more flexibility and that rules and regulations be written in such a way that they don't cause such pain when it comes to local implementation.

Being realistic, Congress should fund nationwide concerns at the national level or provide incentives, alternatives and options for local governments to compliance, including longer implementation timetables or more reasonableness in the regulations.

No one would suggest publicly that we not do everything possible to protect our nation's, and more particularly Florida's and Volusia County's environmental resources and natural assets. However, many federal environmental mandates are fraught with burdensome rules and regulations, perhaps to the degree that one could argue reasonably that there may be many cases of government overkill.

In Volusia County, we've incurred enormous additional expense and years of delay in building one of our most critically needed beltways, all for the sake of protecting habitat of an endangered bird species. I'm not saying the birds shouldn't be protected, I'm saying that there probably should have been more room for negotiation and acceptable alternatives.

Unfunded mandates passed from the federal and state level without question are impacting property tax levels and fees for services at the local level. In some cases, these mandates may be similar to legislation that local governments would have implemented anyway.

Unfunded mandates allow the legislative body passing the bill at the state or federal level to appear to solve problems and keep campaign promises of "no new taxes." The unpopular tax increases or an equally unwelcome reduction in services eventually must occur at the local government level.

In conclusion, I urge Congress to be extremely sensitive to local governments when considering new mandates or remanding services to local governments. A relaxation of timetables and a common sense approach would serve us well. In short, the "buck pass" does stop here, and we are much more receptive when they come with carrots rather than sticks.

Mr. TOWNS. Thank you very much, Mr. Kelton.

We have been joined by Ms. Tipton. The rules are that you have 5 minutes.

**STATEMENT OF LYNN TIPTON, EXECUTIVE ASSISTANT FOR INTERGOVERNMENTAL RELATIONS, FLORIDA LEAGUE OF CITIES, INC.**

Ms. TIPTON. One of the joys of being on the last panel is that I can add a very loud and resounding amen to everything that has been said this morning. I have gone back through and edited my comments so that I can keep them brief and not repeat the things that have been said.

You have in your packet from me this morning the testimony also of the League's president, Ilene Lieberman. This is the speech she gave on National Unfunded Mandates Day last October.

Mr. Chairman, it is a pleasure to be here with you this morning—

Mr. TOWNS. I would like to just ask for unanimous consent to make that a part of the record. Without objection, so ordered.

Ms. TIPTON. I appreciate that, Mr. Chairman. Thank you.

It is a pleasure to join you here in Sanford this morning. I especially want to thank Mr. Mica, Congressman Mica for all of his tremendous work on the issue of unfunded mandates, and we greatly appreciate the subcommittee coming to Florida for this hearing.

Sanford is 1 of the 392 municipalities in Florida. All of these municipalities are represented by the League of Cities. Our towns are small. They range in size from 11, which is the town of Orchid, all the way up to Jacksonville which is 644,000 people. We do not have a lot of the large older cities like a lot of America. Most of our cities are relatively new and, as I said, relatively small. There are tremendous diverse differences both geographically and culturally in the cities of Florida, but the one thing they all have in common is unfunded mandates. And I want to stress from the beginning, as others have, that the issue today is not the mandates themselves, because most mandates are born out of truly sincere good ideas. The question today, of course, as everyone has indicated is who should pay for them.

When Congress and the Federal Government went away from the era of Federal revenue sharing to one where Federal revenue sharing did not exist, that change in philosophy, of course, greatly impacted America's cities. But I would argue that some of that change is good, for after all, Federal revenue sharing, even though it brought tremendous dollars into the local government levels, it also tied their hands. After all, when someone hands you the money and a cookie cutter approach to spending it, that means they have also chosen your priorities for you. So I would say and argue to you this morning that it is better to empower our cities with financial incentives and allow them to develop the strategies to meet the Federal objectives that you set in a manner that best reflects the unique characteristics of each of these levels of government.

Even though Federal revenue sharing went away, and there are many that indicate that it needs to come back, I would argue to you that there is a shared responsibility between the Federal Gov-



ernment and the local governments. And as we see the Federal requirements come down to us, what we would like to see come with that are the empowerment tools necessary to implement those programs at the local level and with the best interest of the local level at hand.

In Florida, conservative estimates place the burden of unfunded Federal mandates at roughly 20 to 30 percent of the average city's budget. It is important to note that precise figures are difficult to determine because some Federal mandates are passed through by the State. For some of our cities, the combination of Federal and State mandates consumes 40 percent of their annual budget. With the remainder of their revenues, these cities struggle to provide the services their citizens want; fire and police protection, clean and dependable water and sewer systems, solid waste disposal and decent roads. Desirable services like parks and recreation, public transportation, affordable housing partnerships and other innovative programs wait behind and are funded if possible.

As you heard this morning from Representative Constantine, the success of the constitutional mandate known as amendment 3 that was passed here in Florida, the success of that amendment process sent a strong message to our legislature, we welcome your creative ideas, but not the mandating of them upon other levels of government. If the idea is meritorious, then fund it or give the authority for funding it to the respective governmental entities.

We ask the same of Congress. After thorough analysis of your ideas; after careful consideration of the role of the Federal Government in providing these good programs, show your commitment to the programs you sponsor by funding them, or empower the recipient level of government to fund it by tax or by fee and give them the freedom of implementing the program themselves. And further, show your commitment to this mandate by requiring that it pass both the House and the Senate by super majority.

There are currently more than 20 bills before Congress which would enact some measure of mandate accountability. The League favors those bills that would require the items just mentioned.

Mr. Chairman, there is one example that I would like to share with you as I see my red light is on. The Environmental Protection Agency in implementing the rules for the Clean Water Act has a program within it called national pollutant discharge elimination system. It is known NPDES for short. Most of the regulations included in this completely unfunded Federal program will impact cities and counties. The cost of implementing NPDES is now estimated at half a trillion dollars. That is more than \$10,000 per U.S. household. It is true that stormwater runoff adds to the pollution in our rivers, lakes and major water bodies. I say that it adds to the problem because there is no requirement in NPDES for testing or containment of agricultural runoff. Urban stormwater runoff is only 3 to 6 percent of the pollution source. Where was the cost-benefit analysis when NPDES was being promulgated? Can any pollution prevention program succeed if it does not address agricultural concerns? Does NPDES meet the intent of Congress in the Clean Water Act? I would argue that it does not and that it cannot, and if the act is not amended, it will bankrupt America's cities. Stormwater does not know political boundaries and it falls dif-

ferently in every State. It was a cookie cutter, one size fits all approach to clean water and unfortunately, it will not work.

Mr. Chairman, I urge you and the subcommittee and Congress to act upon the mandate related legislation that you have before you. Florida's cities and American cities are your governmental partners and we welcome the opportunity to work with you.

Thank you.

[The prepared statements of Ms. Tipton and Ms. Lieberman follow:]

Statement of Lynn Tipton  
Executive Assistant for Intergovernmental Relations  
Florida League of Cities, Inc.  
to the Subcommittee on Human Resources and  
Intergovernmental Relations  
February 26, 1994  
Sanford, Florida

Mr. Chairman:

Thank you for inviting me to testify before the Subcommittee on Human Resources and Intergovernmental Relations of the House Committee on Government Operations. It is an honor to join you in Sanford to discuss unfunded federal mandates. I also want to express my appreciation to Representative Mica for his diligent work on this issue.

Sanford is one of the 392 municipalities represented by the League. Florida's cities are relatively new compared to much of the United States; and the majority are small. There are diverse geographical and cultural differences among our cities, but one thing each one has in common is unfunded mandates. I want to stress from the beginning that the issue today is not the nature of the mandate itself, for most mandates are the result of sincerely good ideas. The issue today is who should fund them.

Since the early 1980s, states, counties and municipalities have been subjected to an unprecedented number of unfunded mandates by the federal government. Congress and the various federal agencies that promulgate the regulations have passed on billions of dollars' worth of program requirements to state and local governments. The U.S. Advisory Council on Intergovernmental Relations (ACIR) compiled a list, included in your handout, of the most significant of these mandates. The 1980s signaled a change in philosophy regarding the relationship between state and local governments and the federal government from one of significant federal funding for programs at the state and local level, to one without federal funding. I would argue that some of that change was very positive. Federal revenue sharing, for all its fiscal benefit, also restricted local governments. When funding is tied to stringent requirements, most of them written in a cookie-cutter approach to all states and all localities, it is often difficult to utilize the funds. After all, a cookie-cutter funding program means that someone else chooses your priorities for you. We would argue it is better to empower our cities with financial incentives and allow them to develop strategies to meet the federal objective in a manner that best addresses the needs of these unique communities, rather than dictate regulations to cities and then tie funding to those requirements.

The end of federal revenue sharing, however was just the first part of the change in philosophy. Congress was faced with decisions on many good ideas--aging infrastructures like bridges and highways in need of replacement; environmental concerns; social programs for



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the homeless, uninsured and unemployed; economic development for failing downtowns; increasing crime rates and overcrowded jail facilities; and so on. To ensure that these needs were transformed into programs, Congress passed the necessary legislation without funding. The state, county and municipal governments were then faced with monumental decisions themselves: implement the requirements or face penalties. To fund the programs, these same governments have had to, and continue to set aside their own priorities and needs.

In Florida, conservative estimates place the burden of unfunded federal mandates at roughly 20 to 30 percent of the average city's budget. It is important to note that precise figures are difficult to determine because some federal mandates are passed through by the state. For some of our cities, the combination of federal and state mandates consumes 40 percent of their annual budget. With the remainder of their revenues, these cities struggle to provide the services their citizens want: fire and police protection, clean and dependable water and sewer systems, solid waste disposal and decent roads. Desirable services like parks and recreation, public transportation, affordable housing partnerships and other innovative programs wait behind--and are funded if possible.

In 1990, the citizens of Florida amended their Constitution to restrict the State's ability to pass unfunded mandates on to counties and cities. The Legislature must now, after an analysis of the impact upon local governments, either fund a program or pass the legislation by a two-thirds vote of both houses. The success of this amendment process sent a strong message to our Legislature: we welcome your creative ideas, but not the mandating of them upon other levels of government. If the idea is meritorious, then fund it, or give the authority for funding it to the respective governmental entities.

We ask the same of Congress: after thorough analyses of your ideas; after careful consideration of the role of the federal government in providing these good programs--show your commitment to the programs you sponsor by funding them. Or, empower the recipient level of government to fund it, by tax or by fee, and give them the freedom of implementing the program themselves. And further, show your commitment to this mandate by requiring that it pass both the House and Senate by super-majority.

There are currently more than 20 bills before Congress which would enact some measure of mandate accountability. The League favors those bills that would require those items just mentioned: a publicly acknowledged impact statement of the program upon state and local governments, complete with fiscal impact and cost-benefit analysis, and a super-majority vote from both houses. This legislation would be a solid first step in repairing the damage of the past 14 years. In addition, however, Congress must seriously

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address the unbridled authority given to the federal departments that promulgate the regulations tied to these mandates.

One example: require a cost-benefit analysis to be performed before any rule is drafted--well before--by the Environmental Protection Agency. I hope you are aware of the costs associated with one part of the Clean Water Act: the National Pollutant Discharge Elimination System (NPDES). Most of the regulations included in this completely unfunded federal program will impact cities and counties. The cost of implementing NPDES is now estimated at half a trillion dollars--more than \$10,000 per U.S. household. It is true that stormwater runoff adds to the pollution in our rivers, lakes and major water bodies. I said it adds to the problem because no where in NPDES is there a requirement for containment or treatment of agricultural runoff, which is estimated to be 51 percent of the pollution's source, while urban runoff is estimated at 3 to 6 percent. Where was the cost-benefit analysis when NPDES was being promulgated? Can any pollution prevention program succeed if it does not address agricultural concerns? Does NPDES meet the intent of Congress through the Clean Water Act? I conclude that it does not, and will not result in EPA's expectations, and if the Act is not amended it will bankrupt America's cities. Stormwater does not keep to political boundaries and it falls differently in every state. An unfunded, cookie-cutter, one-size-fits-all approach to cleaning our water cannot work.

Mr. Chairman, I urge you and the subcommittee, the full Committee and Congress to act upon the mandate-related legislation currently before you. Florida's cities, and America's cities are your governmental partners and we welcome your leadership and innovation--but not in the form of unfunded mandates that do not recognize the unique characteristics and abilities of each state and form of local government.

I thank you for allowing me to testify and I will be happy to answer any questions.

MAJOR FEDERAL STATUTES OF INTERGOVERNMENTAL REGULATION  
1960-1990

YEAR	STATUTE	YEAR	STATUTE
1964*	Civil Rights Act (Title VI)	1977	Surface Mining Control & Reclamation Act Marine Protection Research & Sanctuaries Act Amendments
1965	Highway Beautification Act Water Quality Act		
1966	National Historic Preservation Act	1978	National Energy Conservation Policy Act Public Utility Regulatory Policy Act Natural Gas Policy Act
1967	Wholesome Meat Act		
1968	Civil Rights Act (Title VIII) Architectural Barriers Act Wholesome Poultry Products Act	1982**	Surface Transportation Assistance Act Voting Rights Act Amendments
1969	National Environmental Policy Act	1984	Child Abuse Amendments Hazardous & Solid Waste Amendments Highway Safety Amendments Voting Accessibility for the Elderly & Handicapped Act
1970	Occupational Safety & Health Act Clear Air Act Amendments Uniform Relocation Assistance & Real Property Acquisition Policies Act	1986	Age Discrimination in Employment Act Amendments Asbestos Hazard Emergency Response Act Commercial Motor Vehicle Safety Act Education of the Handicapped Act Amendments Emergency Planning & Community Right-to-Know Act Handicapped Children's Protection Act Safe Drinking Water Act Amendments
1972	Federal Water Pollution Control Act Amendments Equal Employment Opportunity Act Education Act Amendments (Title IX) Coastal Zone Management Act Federal Insecticide, Fungicide & Rodenticide Act	1987	Civil Rights Restoration Act Water Quality Act
1973	Flood Disaster Protection Act Rehabilitation Act (Section 504) Endangered Species Act	1988	Drug-Free Workplace Act Fair Housing Act Amendments Lead Contamination Control Act Ocean Dumping Ban Act
1974	Age Discrimination Employment Act Safe Drinking Water Act National Health Planning & Resources Development Act Emergency Highway Energy Conservation Act Family Educational Rights & Privacy Act Fair Labor Standards Act Amendments	1990	Americans with Disabilities Act Clean Air Act Amendments Education of the Handicapped Act Amendments Fiscal 1991 Budget Reconciliation Act
1975	Education for All Handicapped Children Act Age Discrimination Act		
1976	Resource Conservation & Recovery Act		





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**FLORIDA LEAGUE OF CITIES, INC.**

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**Memorandum**

Statement of FLC President Ilene Lieberman  
Mayor of Lauderdale, Florida  
to the Subcommittee on Human Resources and  
Intergovernmental Relations  
February 26, 1994  
Sanford, Florida

Dear Mr. Chairman:

Thank you for including the Florida League of Cities in your witness list for this hearing on unfunded federal mandates. I regret that my schedule prevents me from joining you in Sanford today.

The attached statement was made on October 27, 1993 during the League's recognition of National Unfunded Federal Mandates Day. I respectfully request that you include it in the record for this hearing.

I would like to add that the League continues to monitor the status of the various mandate-related bills currently pending before Congress. We are encouraged by the number of Florida's delegation who have signed on to some of the bills and hope it is an indication that these bills will soon be heard by their respective committees and acted favorably upon by Congress. Our concern is shared by the National League of Cities (NLC); in fact, unfunded federal mandates continues to be one of NLC's top issues each year.

Mr. Chairman, I want to thank Representative John Mica for his continuing concern with the mandates issue, and for asking you and the subcommittee's members to join him in Florida. I trust the hearing will be a productive one and that your field research will confirm the concerns you hear today. Again, thank you for including the League in your hearing.

**President**  
Ilene Lieberman  
Mayor, Lauderdale

**First Vice President**  
Clarence Anthony  
Mayor, South Bay

**Second Vice President**  
Larry Schultz  
Councilman, Rockledge



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#### NATIONAL UNFUNDED MANDATES DAY

Presented by Lauderdale Mayor Ilene Lieberman  
President, Florida League of Cities

Good afternoon, I am Ilene Lieberman, Mayor of Lauderdale and President of the Florida League of Cities. Joining me is Marlene Young, Commissioner of Polk County and President of the Florida Association of Counties.

Today is National Unfunded Mandates Day. As we speak, hundreds of local elected officials throughout the nation are holding press conferences like ours to bring attention to the impact of unfunded federal mandates on Municipal and County budgets. This nationwide effort marks the beginning of an ongoing effort to increase public awareness on the effect of federal mandates on local priorities and convince federal legislators and agencies to provide funding or funding sources for the numerous mandates they enact.

Mandates are decisions by one level of government to impose costly programs or requirements on another level of government.

**At-Large:** Eric Smith, Councilman, Jacksonville • Alexander Penelas, Commissioner, Metro-Dade County • Gerald Thompson, Commissioner, Broward County • Barbara Sheen Todd, Commissioner, Pinellas County • Robert E. Tuttle, Commissioner, Volusia County • **District Directors:** Richard Gage, Councilman, Cinco Bayou • Robert F. Bernard, Commissioner, Panama City • Glenel Bowden, Councilman, Lake City • George E. Musson, Mayor, New Smyrna Beach • John L. Smart, Mayor, Lake Helen • William Copeland, Councilman, Archer • Paula M. DeLaney, Commissioner, Gainesville • John Land, Mayor, Apopka • Bettye D. Smith, Mayor, Sanford • Joseph Greco, Council Chairman, Tampa • Frank R. Setchel, Jr., Mayor, Mulberry • Holland G. Mangum, Mayor, Seminole • Walter Stubbs, Mayor, Treasure Island • Rocky Randels, Councilman, Cape Canaveral • Helen Ludwig, Councilperson, West Melbourne • Kevin Henderson, Commissioner, Stuart • Nora Petterson, Vice Mayor, Sarasota • Richard G. Beshaw, Councilman, Fort Myers • Steven Abrams, Councilman, Boca Raton • Samuel J. Ferrari, Mayor, Greenacres • John "Jeff" Koops, Commissioner, West Palm Beach • Thomas Lynch, Mayor, Delray Beach • Alex Fekete, Vice Mayor, Pembroke Pines • Sam Goldsmith, Commissioner, Coconut Creek • Thomas Haskis, Commissioner, Lighthouse Point • Joan Kovac, Vice Mayor, Davie • Dan Pearl, Commissioner, Sunnise • Sandra Steen, Mayor, Wilton Manors • Joseph Gardner, Councilman, Bay Harbor Islands • John Kurzman, Vice Mayor, North Miami Beach • Roy S. Shiver, Commissioner, Florida City • **10 Largest Cities:** E. Denise Lee, Councilperson, Jacksonville • J. L. Plummer, Jr., Commissioner, Miami • Sandy W. Freedman, Mayor, Tampa • David J. Fischer, Mayor, St. Petersburg • Julio Martinez, Mayor, Hialeah • Sheldon B. Watson, Commissioner, Orlando • Jim Naugle, Mayor, Fort Lauderdale • Dorothy Inman-Crews, Mayor, Tallahassee • Maria Giullanti, Mayor, Hollywood • Rita J. Garvey, Mayor, Clearwater • **Pres. President:** William A. Evers, Mayor, Bradenton • **FCCMA:** Michael J. Roberto, City Manager, North Miami Beach • Raymond C. Sittig, Executive Director • Harry Morrison, Jr., General Counsel

Unfunded mandates provide no additional revenue to offset the cost impact of implementing these new programs or requirements. Thus, our local citizens end up footing the bill for these intrusive mandates and that bill is often very expensive! With mandates, the "bill" is in the form of local property tax increases, lower levels of service, deletion of existing services, or employee layoffs. And that bill must be paid, even if local priorities suffer...and city taxpayers just keep paying, and paying, and paying a very significant bill.

Mandating programs on our local citizens without providing the funding has become an increasingly popular practice of the federal government. Between 1983 and 1990, new federal regulations imposed cumulative estimated costs of between \$8.9 billion and \$12.7 billion on state and local governments' budgets. A recently completed study of 314 cities, which is equal to almost one-half of all the population in cities over 30,000, indicates that the cost for compliance with the 10 most expensive unfunded mandates was \$6.3 billion for Fiscal Year 1993. This equates to 12.3 % of locally budgeted revenues on average. And this cost is expected to increase to \$87.8 billion for Fiscal Years 1994-1998. In the City of Lauderhill, close to 32% of our annual budget is needed to cover the costs of all state and federal mandates, with an annual cost per household of \$522.18! A significant amount of local revenue is being shifted from locally determined priorities in order to meet these expensive federal dictates because Florida Cities and Counties have limited revenue source availability.



National Unfunded Mandates Day is part of an effort to have accountability and responsibility rest with the governmental agency that enacts the mandate. Accountability is the cornerstone of our democratic process. By separating funding from spending requirements as occurs in the enactment of a mandate, our system is seriously undermined. We believe that if the federal government had to pay the bill, there would be more careful scrutiny of the benefits gained vs. expenses incurred in meeting these new requirements. Let me explain the problem this way: You wouldn't give your checkbook to someone and let him write as many checks as he pleases, no matter how frugal he is. You would want him to be accountable for his expenses, no matter how beneficial those expenses are. Well, right now, the federal government is writing hundreds of checks from municipal checkbooks, using our tax dollars for their priorities...and they aren't providing the necessary deposits to offset these additional expenses. As a result, city taxpayers are really paying a "hidden" federal tax for these mandates.

Usually, we have little quarrel with the intention of laws enacted by Congress, such as assuring a healthy environment or enabling people with disabilities to participate fully in our society. But, as local officials, we are concerned that the costs and tasks required by these good intentions are all too often left for us to pay for and carry out. We are also concerned that the number of unfunded federal mandates is clearly increasing, especially in the area of environmental regulation. Overregulation

in this area is especially costly. Scientific justification and cost benefit analysis do not presently accompany environmental mandates. The Safe Water Drinking Act is a perfect example of what has happened. In 1972, local water utilities had to test for the presence of around 20 substances; by 1992, the number of substances had risen to 84 and indications are that shortly there will be close to 300. Now, no one is suggesting that people drink contaminated water. But, the "safe" levels are set so low that for the pesticide atrazine, for example, the safe level of 3 parts per billion is 12,000 times lower than the level at which there is evidence of any harmful effects. At this "safe" level, you would have to drink 3,082 gallons of water per day for the rest of your life to equal the dose of atrazine that caused a harmful affect in a laboratory animal.

The 1987 Water Quality Act contains requirements for municipal facilities to obtain stormwater permits. Stormwater is a problem that does not respect City or County boundaries...or State boundaries, for that matter. How fair is it that Florida receives a good deal of Alabama and Georgia's stormwater runoff, yet only Florida residents will pay their bill? As you can see, there are financial inequities in determining who pays for the stormwater treatment that follows the permitting process. Early estimates of \$10 billion dollars nationwide for the first phase of permitting, testing, and containment are onerous to the Counties and Cities who must pay this bill.

The chart that follows is a graphic example of the burden that environmental mandates have placed upon state and local governments. This data is from the U.S. Environmental Protection Agency (EPA). In 1981, Cities and Counties bore 76% of the cost for implementing environmental standards, compared to 6% by the state and 18% by EPA. In 1987, those figures increased to 82% for Cities and Counties, and are estimated at 87% for year 2000! It is interesting to note that EPA's portion decreases in each case.

If the federal government thinks that these programs are so great, then why aren't they funding them? You must ask why Congress is unwilling to fund these mandates--and to accept accountability for the fiscal impact of the mandates. It has simply become too easy for the federal government to pat itself on the back for its good ideas, while presenting the bill to State, County, and City governments for payment. We need to change that practice.

Florida's citizens made a choice about unfunded state mandates in 1990--to their credit, the state Legislature has worked within the restrictions since then. Congress should do no less. Passing a cost along to another level of government is not good government, and it discourages good, healthy debate on the issues. A program should either be funded or a source of funding should be given with the program.

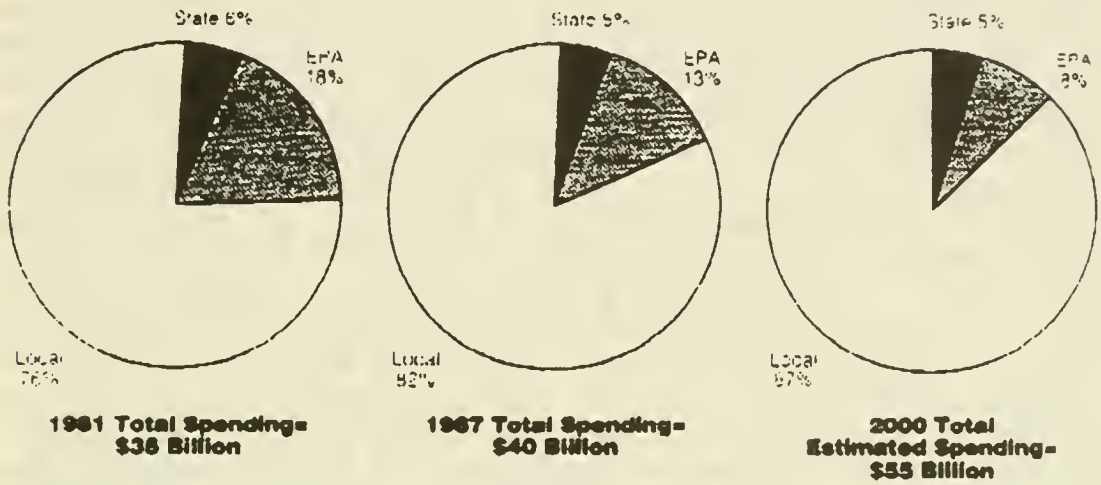
On behalf of Florida's citizens, I urge Florida's Congressional Delegation to lead the movement toward full fiscal



accountability in Congress. I am particularly pleased that we have caught the attention of several federal legislators on this issue. HR 1295, sponsored by Rep. Moran, has attracted bi-partisan support with 13 co-sponsors from the Florida Legislative Delegation: Reps. Bacchus, Bilirakis, Canady, Deutsch, Fowler, Goss, Hastings, Johnston, McCollum, Peterson, Shaw, Thurman, and Young. This bill will require cost impact statements before new mandates are passed. Under HR 1401, sponsored by Rep. Condit, the federal government would be required to pay the total amount of direct costs resulting from certain federal mandates. Reps. Bilirakis, Lewis, and Thurman from the Florida Legislative Delegation are co-sponsors of this bill. The companion bill, S 993, sponsored by Sen. Kempthorne, is co-sponsored by Sen. Mack. Unfortunately, none of these bills have been scheduled for a public hearing to date. In addition, close to 70 representatives have joined the non-partisan House Caucus on Unfunded Mandates. While this is a good start, we need to make sure these measures become law, just as we did in Florida, so we can finally put a stop to unfunded federal mandates. It's this simple: "NO MONEY, NO MANDATES."

I encourage all citizens to use the forum of Unfunded Mandates Day to personally contact their Senators and Congressmen, and to say, "NO" to unfunded mandates. Let's keep local dollars local.

## Percentage of Public Expenditures by Level of Government for Environmental Standards 1981-2000



Source: A Preliminary Analysis of the Public Costs of Environmental Protection 1981-2000, U.S. EPA May 1990

Mr. TOWNS. Thank you. Thank you for your testimony. It has been extremely helpful.

Let me just sort of begin with you, Ms. Hartsell. You wanted to say something about the cost of exceptional students. Could you sort of expound on that?

Ms. HARTSELL. The individuals with—the Disabilities Act was passed many years ago, 1976, and it talks about the need to meet the needs of exceptional student population. The issue with that is that at that time, the promise, if you will, from Congress was that the excess cost would be met at approximately 40 percent. Indeed, right now, the excess cost is being reimbursed at approximately 7 percent. In fact, instead of looking at the issues in terms of taking care of the cost, the associated cost to support services, the technology that is required, the trend has been to increase the categories, to expand the definition of those categories to include more and more children at higher and higher cost. Example of which, for very good reasons, and I am not debating those at all, are the expansion of categories under 504 that would include ADD children and children with communicable diseases. There are no funds associated with those, with some very high cost requirements. In fact, the legislation itself says that while there are no funds, noncompliance can result in loss of all Federal dollars to a school district, a very hammer involved with it.

An example of the—another example of a court creating a problem, the question that was asked earlier, a Federal court. There was a S1 Turlington case in the Fifth Circuit Court that gave us a ruling about how you can discipline children who have any kind—who have been identified or thought to be in the past be identified, or might be identified as any of the ESE categories, saying that—ultimately saying that we could discipline those students with suspension or expulsion, but only if that did not result in cessation of those services. As an example of exactly what that means; I can give you two in the last couple of years from my own small county.

We had a student, a high school student who previously as an elementary student had been identified as an SLD part-time student, pull out 1 hour a week for extra help type of student. When he was a high school student, he developed a ring where he stole and sold guns to other children. We thought he did not belong in our school system for a period of time until he could solve his problems with the law. We could do that, but only because we also agreed that we would send a teacher to his house 3 days a week to deal with providing him services that he had long since quit utilizing at school.

We also had a high school student who was big on selling drugs and was a big pusher. We do not have a very high tolerance for guns or drugs in our schools, and we wanted to excuse his attendance for awhile and because he 30 minutes a week went to a speech class, we were prohibited from doing that except under similar circumstances.

There is a move right now to expand some of those rules even more to include assaultive and aggressive students under the EH or the SED categories, and in fact what we would be doing is granting immunity to some thugs who are among us. We are deal-



ing with juvenile justice in Florida right now and in the Nation, and we feel like we cannot—we can deal with students needs, we cannot excuse their behavior for other problems.

Mr. TOWNS. Thank you very much.

You know, as we talk here, I think there are a lot of things that have happened along the way. I think, first of all, the fact that revenue sharing was eliminated, I think that is one of the problems. The other problem is that the budget itself in almost every area has been cut, that is another problem. And at the same time, demands and needs at the local level have also increased in many, many areas. And that is a problem.

So I think that it is going to require a tremendous amount of dialog to make this work, I mean at every level. And even at the local level, it is going to have to be some talking and sharing of information to be able to sort of help deal with the costs.

Ms. Tipton, you said something that I want to make certain I clearly understand, I was a big supporter of revenue sharing and I went down with all my—I mean all the efforts to sort of keep it alive, and it finally went under, as you know. But I was walking around at the last minute, you know, still fighting. We were on the floor and I was still—I still think I have some blood that is still around from that, I am still a little bloody. But the point is that I was a strong supporter of revenue sharing because I felt that revenue sharing answered a lot of our problems on the local level, in terms of the people that are responsible for leadership there, were aware of what the needs were, and that they could take these dollars and leverage it with other ways to be able to provide services for an area. If they needed housing, they could take it and provide housing. If they needed additional money for education, they could do that. If they need police, if they need sanitation, whatever they needed, they could take the dollars and do that. However, of course now that we do not have it, it is creating this problem.

Now let me make sure I understand what you are saying. You are saying that even if we do not do anything, that even if we just send revenue sharing back, that would not be adequate, that would not be sufficient based on your views and your feelings.

Ms. TIPTON. No, that is not exactly what I was trying to get across, Mr. Chairman.

Revenue sharing did contain many good elements and unfortunately for a lot of the cities of Florida, due to their unique characteristics and their very small size, revenue sharing dollars did not necessarily reach all the way to them, and many times it came tied with so many restrictions that in using the dollars, they wound up using them for programs that were not their No. 1 priority. So what I would say is that while a return of revenue sharing would be very beneficial, that tied in with that revenue sharing has to be the recognition that for what the dollars are proposed for, say it is to buy fire trucks, if you were able to get Federal revenue sharing to buy a fire truck, but a fire truck was not your No. 1 priority, do you take the money then as a city and buy the fire truck even though what you really needed was help for your water and sewer treatment plant?

And what we heard from most of our cities, from an association perspective, is that Federal revenue sharing, as you said, met a

number of demands and was very valuable, but what has to come back tied to revenue sharing is the ability and flexibility to spend it where the priorities are and not to the Federal regulations that came tied to the dollars.

Does that help explain that?

Mr. TOWNS. Yes, very much, because I thought for a moment that you were saying that was not something that would work.

Ms. TIPTON. I am sorry that that is how that came across, I did not intend that.

Mr. TOWNS. Let me at this time yield to—no, I really want to talk to Mr. Kelton for 1 second. Is that clock right, did I use my 5 minutes? [Laughter.]

Mr. SCHIFF. Mr. Chairman, chairmen do not have clocks. [Laughter.]

Mr. TOWNS. Let me say you talked about, in terms of budget, Mr. Kelton, and you said that by the time we finish, you know, with the State—first the Federal Government and then the State, and by the time it gets down to you, that sometimes 40 percent of your budget is actually for mandates?

Mr. KELTON. I think the figure that I used was about a third. Our mandates amount to about a third of our general fund budget. We have got a general fund budget of about \$90 million, about \$30 million total that we can tie to mandates of one type of another.

Mr. TOWNS. And it is hard to sort of separate it out because of the way it is done, is it not? In terms of the fact that the Federal Government sometimes passes it down to the State and the State passes it down to you. So you cannot sort it out into what is State and what is Federal, you cannot—

Mr. KELTON. Not completely. There are some things that are clearly Federal, there are some that we know are clearly State. There are others where there are the pass through effects. Certainly Medicaid is one that we deal with in that respect.

Mr. TOWNS. You know, I think that you really make the case that we have to do something because, you know, you are at the end and you really get the real problem because even States can just sort of say OK, we will pass this on down to the county and the county will have to deal with it. But you cannot pass it anywhere.

Mr. KELTON. We do not have anybody to pass it to, sir, except the taxpayer.

Mr. TOWNS. I yield.

Mr. SCHIFF. Mr. Chairman, first of all, I have a request for other individuals here to join this panel and add a few comments and since this is a hearing and since the individual that I am informed is Mr. Simmons, the city manager for Sanford, FL, where we are at right now, I would ask unanimous consent, specifically your consent, to invite Mr. Simmons to join us.

Mr. TOWNS. Without objection, be delighted to do so.

And while we are doing that, we have been joined by Congresswoman Corrine Brown, who also, as you know, is from the great State of Florida and serves on the Public Works and Transportation Committee, and one of the committees that is sort of known for its mandates. So we are happy for her to join us and participate in this hearing, and also of course, you have Congressman Mica



who also serves on that committee as well. I am certain that we will go back and begin to look at a lot of these things.

What I would like to do at this point is just to yield to her for any kind of comment that she might have, and then go back to the witnesses.

Ms. BROWN. Thank you, Mr. Chairman. I just want to mention that I am also on Government Operations Committee.

Mr. TOWNS. On this committee.

Ms. BROWN. Yes, sir, I am on this committee. And I really just came to listen. Having served 10 years in State government, I understand about passing it on, and you get to the point of who is going to pay for it.

So I really just came to listen and hear. I am glad to be here.

Mr. TOWNS. Thank you very much.

And I think at this time, we could either do one of two things. We could hear from him and then go back to the questions, and I think it might be easier to do that.

#### STATEMENT OF BILL SIMMONS, CITY MANAGER, SANFORD, FL

Mr. SIMMONS. Thank you very much, sir.

First, I want to welcome all of you all to visiting the city of Sanford. We are a town of approximately 35,000 people. I would characterize us as perhaps the blue collar community of Seminole County. We have a relatively high minority population and a relatively low per capita, per household income, compared with Seminole County as a whole.

I am certain, as you drove in to this meeting this morning, you observed our beautiful Lake Monroe, which is a tremendous asset for the city and yet at the same time has and probably will continue to be something of a tremendous liability for the city. Let me explain.

We have just finished spending over \$30 million of utility money, that is over \$3,000 per utility customer, complying with a mandated removal of highly treated wastewater discharge from Lake Monroe. We have been caused to go to other methods of disposal at a tremendous cost to our people who, in many cases, really cannot afford to pay.

The Clean Water Act, with its implication of stormwater, which Ms. Tipton previously addressed in considerable detail, poses us a significant problem in that we are an old town, we have over 20 direct discharges, pipes in most cases, and several natural streams, that discharge into Lake Monroe. Depending on exactly how the mandate is implemented, we estimate that that will cost the city an additional \$25 to \$40 million. I do not have to tell you the devastating effect that could have on a city whose household median income is \$25,000 per year.

These are significant problems that need resolution in terms of a local solution to a local problem rather than the cookie cutter or the Washington solution to the local problem.

One other area I want to mention to you is law enforcement. Our police department, which has slightly over 65 officers, uniformed officers, has a budget of over \$4 million per year. That budget very closely approximates our total revenue from ad valorem taxes that the city of Sanford receives. Our whole ad valorem tax budget basi-



cally goes directly to the police department. Ad valorem tax is our largest single revenue source for the general fund budget.

We are highly constrained in terms of putting additional revenues into a larger police department, and very frankly I am not sure that putting additional funds and putting additional police officers on the street will achieve the goal of reducing crime. Why not? The reason is what Congressman Mica referred to earlier in that the effectiveness of our police officers and our law enforcement is very severely constrained by mandates, mandates which have, to a very great extent come from the judicial system. And I am basically asking for help from the legislative system in finding a way to bring about a balance.

I appreciate the time to say these things to you, and certainly hope that you enjoy your time here in our city.

Mr. TOWNS. Thank you very much, we appreciate your comments, and I yield back to Congressman Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman.

Mr. Simmons, could you give us an example of a judicial mandate to your police department, such as you just told us about?

Mr. SIMMONS. Well you get to the issue I believe of our criminals who are picked up and released basically before the paperwork is dry on the report. These people have bailed out and are back out on the street because of the systems that are in place as far as who can be held, who cannot be held, under what circumstances. That is one particular issue. We see repeat criminals where basically those who are put away for a period of time serve a very short part of their sentence and are right back out there. Our law enforcement officers know who these people are, but they do not have and should not have enough people to shadow each one of these previously convicted criminals on a 24 hour basis, which basically is probably the only way that you could achieve continued compliance. I think there basically is no penalty to breaking the law when you really get down to it. And I believe that this is the mentality that many of our people, including our young people, have. We spend as much time as we are able to in working with the young people, but unfortunately their role models are coming from the wrong side.

Mr. SCHIFF. Well some of those things, such as early release of repeat offenders, I have personally found is from a lack of determination of State governments to fully fund the costs necessary to keep them in prison, under some mistaken belief that they are saving money that way. Though certainly Federal mandates can certainly impact that, and I do not dispute that.

Ms. Hartsell, what I wanted to ask you about is you made several references to the DEP, is that a State department?

Ms. HARTSELL. It is Department of Environmental Protection.

Mr. SCHIFF. Is that a State—

Ms. HARTSELL. That, as I cited, was Pinellas County, and I do not have a huge number of details on what agencies they were dealing with, but yes.

Mr. SCHIFF. I thought so. That is what I was just getting at, and the chairman sort of discussed it with Mr. Kelton. And that is, we had Representative Constantine, I believe was the gentleman's name, on the panel earlier, our first panel.

Ms. HARTSELL. Right.

Mr. SCHIFF. Objecting to Federal mandates on the States. But I am hearing all the local officials mention State mandates on local government.

Ms. HARTSELL. Right. Well part of the—as I understand it, and I certainly do not pretend to be an expert, but as I understand it, the lead testing issue is one of those things that is passed from the Federal Government to the State government.

Mr. SCHIFF. It is a pass-through, in other words.

Ms. HARTSELL. Yes.

Mr. SCHIFF. OK.

Ms. HARTSELL. And so we may deal with the State government, but it is a water testing issue from the Federal Government.

Mr. SCHIFF. Well let me just say that, you know, I understand that there can be a pass-through here, I understand there could still be Federal action that is causing the States to pass matters on to counties and cities, but I simply hope that the State legislature of Florida and of New Mexico and of other States, while they object to Federal mandates, which are a large portion of what we are talking about, keep in mind what they are saying. When the shoe is on the proverbial other foot and they are deciding what they think counties and cities in their State should do without funding it. I have also an impression that that is also occurring, that States are creating their own unfunded mandates, which all falls down upon the people in the local government.

Ms. HARTSELL. There is no question that is an issue. A couple of the speakers have mentioned our recently enacted constitutional amendment about State mandates not being allowed to happen unless they are funded. It is interesting to note that that constitutional amendment excluded school systems from that. It applies to counties and cities and other entities, it excluded school systems. And I can assure you that not only is the Federal Government continuing to talk to us, but so is the State government.

Mr. SCHIFF. Understood.

Mr. Chairman, before yielding back, I just want to welcome our colleague from Florida, a member of the full committee, for joining us here today, and express my appreciation for taking the time to be with us.

Ms. BROWN. Thank you.

Mr. SCHIFF. With that, I yield back.

Mr. TOWNS. I would like to associate myself with the remarks. Congressman Mica.

Mr. MICA. Thank you, Mr. Chairman and it is also good to see my colleague, Congresswoman Brown and I serve on two committees together and it provides a dynamic force for central Florida. I think being on different sides of the aisle, there are many things that we are able to accomplish together. I am glad to see her and welcome her participation today on our subcommittee.

I also am pleased to see representatives, of course, of our local government, State School Board and League of Cities. One of the things that we have heard today is a lot of the mandates that are coming out of Washington first arrive at the State level and then are passed through. Earlier, I had asked Representative Constantine if he could give us a little rundown of pass-throughs and



I might also ask you—I know you may not be prepared to do that today, but to give us some idea of the impact and as it comes on to the State in the form of a mandate, so we can sort out some of this. And maybe we need to look at some responsibility, levels of responsibility from the Federal, and then if the State wants to impose that, of course, there is flexibility—the possibility of instituting flexibility at that level, and then having some joint funding of this. I know cities in Florida have a taxation cap. Maybe you could tell me what the current caps are and what we are looking at. Are we getting close to maxing out in some of these areas, Ms. Tipton?

Ms. TIPTON. Yes, Congressman Mica, I would be happy to address that. First, to add in on the constitutional amendment, it is a prohibition—it is known as amendment 3 and it passed in 1990—it is a prohibition on the legislature for the passage of unfunded mandates to counties and cities without either a funding source or a vote by both bodies, and a two-thirds vote in both bodies. That is how the State unfunded mandate process works, and it does exclude other entities of local government.

Mr. MICA. How would that be effective if it is mandated from the Federal Government and the States are complying with the Federal mandate?

Ms. TIPTON. What the State has found itself tied to—and the State of Florida is 70 percent tied to—it is 70 percent dependent upon the sales tax, that is its major source of income. What Florida discovered in the early—or the late 1980's, is that sales tax is not recession proof. As Florida's revenues decreased, the State of Florida had to make choices within its budget and it was able to fund what it could fund, and what it could not fund, it passed down to the counties, cities, school boards, and other local governments. Because it could not complete its own requirements of Federal mandates, and had to then turn around and say to the locals, you are going to have to fund this because we as a State are required to do it, but we, the State, our hands are tied financially, we cannot fund it.

You know of course that Florida does not have an income tax, we have a very small corporate income tax, and we are known as a State that is affordable and a lot of people move here because it is affordable, but what turns around and happens then is that the demand for mandates to be complied with means that those requirements get passed down to the local levels of government.

With regard to the caps on cities, cities in Florida receive three taxes—property tax, which is capped at 10 mills and it starts with a homestead exemption of \$25,000 per homestead, and that exemption means that a lot of Florida's properties are not even on the tax rolls. We also receive a municipal occupational license tax that is capped by the State, and we receive a public utility tax which is also capped by the State. With regard to ad valorem, out of the 392 cities in Florida, we have close to 20 that are at the 10 mill cap, some by choice because the property tax works well for them; others because they have no other option. A study that was done by the State legislature indicated that by the year 2006, more than half of Florida's cities will be at the 10 mill cap.

Mr. MICA. That was half by 2006?

Ms. TIPTON. Yes.



Mr. MICA. And the biggest area of increase in the local budgets are the unfunded mandates, is that still true?

Ms. TIPTON. It is growing proportionately large. And if I may say, it is environmental mandates within those mandates that are the largest part of that increase.

Mr. MICA. That was my next question, is where is the largest area. I appreciate your comments.

In the area of how this is affecting us in schools, actually we heard your ADA impact and I think Mr. Kelton had indicated \$3 million. That is county, your school board, what about cities?

Ms. TIPTON. In the millions of dollars, closer to about \$10 million statewide.

Mr. MICA. So we have 392 cities and 67 counties, and you gave an example of St. John's.

Ms. HARTSELL. Right.

Mr. MICA. And also I thought I heard someone mention Pinellas.

Ms. HARTSELL. Yes, earlier another speaker had mentioned it, yes.

Mr. MICA. And we are running about \$3 million, \$3 million—if you add that all up, 67 counties—

Ms. TIPTON. We did a rough calculation based on the number of students and buildings that we have and if you multiply that out as a round number for statewide for school systems, it is something like \$2 billion.

Mr. MICA. Two billion?

Ms. TIPTON. Two billion, that is with a "B." And in fact, Orange County is right now doing a study—

Mr. MICA. One time cost—

Ms. TIPTON. That is to bring up to currency with regard to the current—if it changes again, we will have to do it again. This is not programmatic cost, this is facility cost.

Mr. MICA. Some of the costs we heard from Mayor Hood and maybe from Mr. Simmons will be recurring costs too, every year. Some are fixed capital improvements, but it looks like the total bill—again, you sort of summed it up—will be a multibillion dollar impact on Florida.

Ms. TIPTON. Right.

Mr. MICA. And then we have to take the other 49 States into consideration.

It looks like my time is rapidly up here. I appreciate again this panel and particularly bringing the concerns of local government, two distinguished State organizations representing schools and local communities and the impact of what we are doing in Washington, to the attention of my subcommittee.

Ms. HARTSELL. If I might respond to your question of pass-through. One of the—to kind of sum it up—8 years ago, the school districts in Florida received about 62 percent of the general revenue in terms of funding from the State of Florida. Because of the pass-through of Medicaid health care costs and the prison mandates for certain facilities to be provided in certain—that population—we are now at about 50 percent, we are now third behind HRS and prisons. It has dropped considerably, putting more and more burden on the local property tax to make up the difference. And if it had not been for the lottery, we would be even in a bigger

hole. It was about that same period of time that that additional revenue came in, supposedly to enhance education in Florida. And what it has done is it has kept us out of the lake out here. So there has been, you know, some direct pass-through and some very indirect pass-through to education.

Mr. MICA. Thank you.

Mr. TOWNS. Thank you.

Mr. MICA. Mr. Chairman, as you dismiss this panel, I just had one other request, a unanimous consent request. We have one final request for addressing our panel today, if you could indulge us by hearing the Honorable Robert Breaux, who is the mayor of the city of Maitland. He has waited patiently and asked for a couple of minutes. If possible, I would ask unanimous consent that he be our final witness.

Mr. TOWNS. Without objection, but I do not want to dismiss this panel yet.

Mr. MICA. Oh, I am sorry. Ms. Brown.

Mr. TOWNS. No, I have some more questions too before I yield to Ms. Brown and call on the mayor.

Let me just sort of ask you, Mr. Simmons, what is the unemployment rate in your city, Sanford?

Mr. SIMMONS. Congressman Towns, I cannot give you a number off the top of my head.

Mr. TOWNS. OK.

Mr. SIMMONS. Basically ours within the city of Sanford is going to be slightly ahead of the Seminole County average and probably slightly ahead of the Orlando SMA average, simply because of our demographics, but I cannot tell you exactly.

Mr. TOWNS. The reason I asked the question is that, you know, I think sometimes that we might be doing some things that might not be giving us the best results. You know, I support the theory there is a correlation between unemployment and crime and I think sometimes we just ignore that and sort of move away from it and just do things without fixing some of the things I think that would give us some great results.

So with that in mind, I want to go now to you, Ms. Tipton, with my next question. Have you examined the impact on cities, and States maybe, in terms of the Senate passed crime bill which requires local jurisdictions to pick up some of the costs of providing an additional 100,000 police officers and the cost of building more jails? If so, how will this mandate affect the State of Florida?

Ms. TIPTON. I would tell you, Mr. Chairman, that it will tremendously affect the State of Florida. You have to remember that even though our regular population is 14 million, we have 41 million people in the State of Florida on an annual basis because we are a tourism mecca. And that is a tremendous impact in terms of the number of people who come here.

The municipalities of Florida are affected by this law in terms of the law enforcement requirement, but cities in Florida do not have judicial responsibilities, those are a responsibility of the county. So while we will not be involved in building the prisons and the jail facilities, we will be involved in the law enforcement perspective. With the grants that came through on the legislation that passed putting, I think it was \$75 million into the additional—the hiring



of additional law enforcement personnel, I know of three cities in Florida that received some of that grant money. The rest of the cities, in terms of the mandates put upon them as far as hiring police officers, will have to look to their general fund budgets to support the hiring of additional law enforcement. We did not have that many cities, obviously out of 392, that received those grant funds. But without some type of assistance, either by incentive or by a break in some other area, all a Florida city can do is look to its general fund budget to provide additional law enforcement.

Mr. TOWNS. You know, here again we talked about things coming in through the back door and how some things are not even talked about, and I know in terms of your knowledge and background, so I think it is an opportunity for me to sort of raise some of these questions with you for the record. You know, what about the pension fund of these officers?

Ms. TIPTON. That is a very good point. We do not have a lot of say at the municipal level as to the pension funds for our officers because that is a State mandate. And underneath that as well is the Federal mandate of the Fair Labor Standards Act. FLSA was not originally written to include State and local governments. In 1985, they were put under FLSA and because it is written for businesses in general, many of the ramifications of FLSA really did not fit when you tried to make government fit into, and the officer level and lieutenant and sergeant and higher levels of a police department used to be exempt as a managerial class from FLSA. A court case that came out just 2 years ago now says they are not, and cities are spending millions of dollars to try and fund these lawsuits for the pension and benefit funds of these individual officers. It is just tremendously expensive. For Gainesville, it was over \$100,000 and for the city of Miami, it was over \$1 million, trying to correct—trying to settle out of court on those lawsuits. And that does not begin to address law enforcement.

Mr. TOWNS. Right.

Ms. TIPTON. That is, you know, away from law enforcement.

Mr. TOWNS. That is the point. And I think that is it.

Let me yield, my time is up. Congresswoman Brown, who serves on the full committee and of course is from the great State of Florida. We are delighted that she has joined us, and I say to you that with her and of course with Congressman Mica, you know, working on Government Operations and of course working on Public Works, I think that this area is in very good hands. So I just wanted to let you know that.

Congresswoman Brown.

Ms. BROWN. My question, Mr. Chairman, is not for this particular panel. I just wanted to amend Congressman Mica's proposal. I have three city commissioners, and I would like to give them each 2 minutes also.

Mr. TOWNS. I would be delighted, if there is no objections, to honor that.

Ms. BROWN. Commissioner Bob Thomas, he is from the city of Sanford; Commissioner Sheldon Watson from the city of Orlando and Councilman Glenel Bowden for the city of Lake City. And they are here, so when this panel finishes, I want to thank them for



coming and I wanted also to mention that I do represent part of this area that we are in today.

Mr. TOWNS. OK. We are definitely in good hands. If I step right I am in Congressman Mica's district, if I step left, I am in your district. So I just will not step at all.

Ms. HARTSELL. You can step almost anywhere in Florida and be in part of Ms. Brown's district. [Laughter.]

Mr. TOWNS. Let me thank the witnesses, thank you so much for your testimony, and I can see we have a lot of work to do. Thank you.

So now we have of course Mr. Robert Breaux, the mayor of the city of Maitland here, and of course we have been joined by several county commissioners. If you would be kind enough to call them up.

Ms. BROWN. Bob Thomas. Sheldon Watson from Orlando and Bowden from Lake City.

Mr. TOWNS. You know, I am excited about this, because first of all, when you have a field hearing, you really want to talk to people in the field. And I think that there is no doubt about it that from where you serve, you are on the field. So we want to welcome you, even though you were not on the original list, but we are happy to hear from you. So why do we not begin with you, Mr. Breaux.

#### STATEMENT OF ROBERT BREAU, MAYOR, CITY OF MAITLAND, FL

Mr. BREAU. Mr. Chairman, thank you very much. I understand the need to stay on time and certainly appreciate the indulgence of you and your committee to allow us to speak.

Congressman Mica and I go back probably 20 years to where we served on boards together in the local area and when he was a State legislator and I have always enjoyed working with Congressman Mica. Congresswoman Brown, enjoyed meeting you the other day at our Black History luncheon, and thank you very much for having me here today.

Chairman Towns, you asked a couple of witnesses for some suggestions beyond funding, for easing the burden of unfunded mandates.

Mr. TOWNS. Right.

Mr. BREAU. And I would like to offer some considerations, as you look to answer that very tough question in the next few months.

No. 1, partnerships. We do need increased partnerships between Federal, State and local government officials. The time is gone where we fight with one another. We must work together to achieve the most for the limited taxpayers' dollars that we have responsibility over.

No. 2, I think we must be aware of the best of revenue sharing. The best of revenue sharing was the flexibility that it provided communities to set priorities and establish and carry out programs that met the most important needs for the people involved.

No. 3, I think we engage, as Mayor Hood pointed out, engage in some very expensive litigation at times. We need simple appeal boards for some of the differences between local, State, and Federal issues. For example, the water flea issue was a common sense, and

with a simple allowance of common sense principles to be applied, we could have saved everyone a great deal of money and provided much better programs. We should not have to go to courts, we should have a vehicle—as Mayor Hood pointed out, we need some vehicles, we need simple appeal board type vehicles that allow us to resolve these issues without expensive litigation.

No. 4, next, I think what we need is to set goals at the Federal level, national goals, and allow that partnership to work, allow local officials and State officials to be a part of solving—I see my time is nearly up—part of solving those problems in a flexible way.

No. 5, and last, let me just suggest empowerment. It has already been mentioned by the League of Cities. But we are now allowing our working level employees the empowerment to suggest creative solutions and work those back up through management. Maybe we need to apply that to the same partnership of government officials. Not necessarily start a dialog in all cases, but at least respect the local officials for the creativity they may have.

Let me leave you with one thought. Please empower our State and local officials rather than hamper them with these unfunded mandates.

Thank you, Mr. Chairman.

Mr. TOWNS. Thank you very much, Mr. Breaux.

Mr. Watson.

#### STATEMENT OF SHELDON WATSON, COMMISSIONER, CITY OF ORLANDO, FL

Mr. WATSON. Yes, thank you, Mr. Chairman. My name is Sheldon Watson and I am a city commissioner for the city of beautiful Orlando. I do not want to hash over anything that my more than competent mayor, Mayor Glenda Hood, has went over, and also with assistance from Lynn Tipton from the Florida League of Cities, which I serve on the executive committee of.

Just to more or less reinforce what they have said and also to add that we in the city of Orlando, of course, as Mayor Hood has mentioned, have come up with the figures of what it does take to fund from our side, the unfunded mandates that have been placed on us, not only through the Federal Government, but also through State government, which kind of trickles down to us.

Once again, I do not want to hash over what she had mentioned but it was very aptly put when the news coverage of the number of employees that it does take to really cover these mandates just in the city of Orlando, so throughout the over 390 some cities in the State of Florida, you can imagine, they have similar employee numbers that they can come up with that would show that it does take quite a bit to fund these mandates that come down.

Another example of course that was out in the Nation's Cities Weekly was the point of the DOT regulation that was put out just this past February about having to test certain drivers that have commercial drivers' license and this mandate was put down upon the local governments and they did not have any funding moneys that came behind that. So that is just another example of that.

And once again, I thank the committee for giving us a chance to speak before you, and hopefully from this, we can keep our dialog



going so that we can come up with some solutions to the situation. Thank you very much.

Mr. TOWNS. Thank you very much and thank you for your comments.

Mr. Thomas.

#### STATEMENT OF ROBERT THOMAS, COMMISSIONER, CITY OF SANFORD, FL

Mr. THOMAS. Well first of all, I would like to thank you for having me here this morning, and Representative Brown and all of you who have come to participate in this hearing.

First of all, I really do not have any quarrel with unfunded mandates from the Federal Government, because the things that we have been able to enjoy were mandated from the Federal Government. However, we have had some difficulty. To let you know what I mean is this—some years ago when I was an assistant to a councilman, the Federal Government sent a long questionnaire to us, asking us what we needed for our juvenile system. They were going to give us money to build a big detention center. They were going to give us enough money to hire additional juvenile counselors and the like. And the reply was “throw it in the damned can, we do not want it because they are going to tell us how to use it.” So no one wants to bother with Federal funds if they cannot use it the way they want to. This is the experience that I have had in this city. So I do not have any problem, but I think it perhaps could be structured in a specific way to say what it is going to do.

Now it is very difficult to operate within a municipality without certain entities. Our police department certainly needs some reinforcement, we do not have that. I was hoping that we would make an application for all of these 100 officers that are going to be offered to the various cities, but I was told that cities of our size did not qualify, and I think we had to take what was left. But I really do not have any quarrel with these unfunded Federal mandates because that is the only way that African-Americans in this city I know who have benefited from it.

Mr. TOWNS. Mr. Bowden.

#### STATEMENT OF GLENEL BOWDEN, COUNCILMAN, CITY OF LAKE CITY, FL

Mr. BOWDEN. Thank you, Mr. Chairman.

I think I probably have the unique opportunity, in addition to being an elected official in the city of Lake City, FL, which could be Georgia, I also have the opportunity to serve as Congresswoman Corrine Brown's area director and as a member of the board of directors for the Florida League of Cities. So I get government all the time, and I hear the complaint about unfunded mandates.

I guess I bring the perspective clearly that deals with small cities. My city is a city of less than 10,000 people, which most of the cities in the State of Florida are. And when these mandates come down, in addition to not being able to come up with the money, small cities lack the expertise of just explaining the mandate. I mean, we do not have the engineers, we do not have the technical assistance, and this gets to be a real problem. So if there is a mandate that is Federal in nature and it is real technical, 300



pages, it just overwhelms the small staff of a city manager with a staff of a secretary and maybe two other employees, just dealing with that. It gets to be a problem. The reading of it sometimes would take 3 or 4 weeks just to consume it. So just the volume of the information I think sometimes is unnecessary. Sometimes we take a book to say what you could say in a paragraph or a sentence and the staff people have got to read it. So that is a real problem.

I do have a problem with unfunded mandates, I have a problem with unfunded mandates whether they come from the county or the city or the State. I think that if you are told to do something, then there should be some money coming with that to tell you how to do it. The police officers—I will give you a good example—my city did not apply for those three police offices or ever how many would have been available to them, primarily for this reason. They were told that the Federal Government would fund those officers for 3 years. Well that is fine, but what is going to happen when the 3 years is up? When the 3 years is up, if you tell a city that, well if you agree to this program, you have got to hire these officers, keep them full time, that is a delayed mandate. You know, they say you can have them free for 3 years, but that is just for that 3 years. But when that 3 years is up—we are already at our 10 mill cap, we cannot get any more tax dollars. So when the 3 years is up, we are in the same position that we were in prior to that.

So I really appreciate the opportunity to have something to say. I did not anticipate this, but being on the board of directors of the League of Cities, believe me I am always getting that pressure about talk to your boss about unfunded mandates. And I say well you do not need to tell me that, I understand unfunded mandates. And I appreciate what you are trying to do here today in getting this information.

And thank you for the opportunity.

Mr. TOWNS. Thank you and thank all the members of the panel for your comments. I think there are some interesting things that you raise here in terms of, sometimes we get into something and all of a sudden we find out that we have another mandate based on the fact that the funding will only last x amount of years and sometimes they will start it out and then pull it back and we are left with it, and it requires a tremendous adjustment, you are right.

At this time, I would like to yield to Congressman Schiff, ranking member of the subcommittee.

Mr. SCHIFF. I want to thank this panel for their presentations.

Mr. Thomas, with respect to you referring to not having a problem with unfunded mandates, I just want to see if we are in tune or we are not in tune. I said earlier that I think there is time for broad national policy, that the Federal Government should act at times, and that may involve some cost to State and local government. And the fact that we are at this hearing, I do not want to be construed as opposed to everything that might cost some money along the way.

But I do not know if you were here to hear the testimony of the mayor of Orlando, FL about the amount of money that was being spent to chlorinate and dechlorinate the water for apparently a very limited objective that probably would not have an overall ef-

fect on what they were trying to do in this waterway. Would you not think that this kind of mandate is going too far on the part of the Federal Government, and taking money away from programs, whether one is African-American or one is not African-American?

Mr. THOMAS. Well I will yield to that, yes. I agree that that would not be the right thing to do. But I did not make myself clear because mine was more specifically aimed at these things that really affect African-Americans, that is where my remarks were aimed at. And as far as the mayor of Orlando, I applaud her because it was not too long since they brought forth some seven—well a large sum of money to improve one of their streets in their city, so I applaud her for that.

But I think the point that she made about what you have just mentioned, I think she made a good point. But the point that I was making when I said that I do not have problems with these unfunded mandates is because there are many things that we have benefited from—when I say we, African-American communities, have benefited from. That is my point because there seemed to be no voice coming this way, as it relates to that.

Mr. SCHIFF. I thank you for that explanation. I yield back.

Mr. TOWNS. I yield to Congresswoman Brown.

Ms. BROWN. I just would like to have the opportunity to submit to the committee in writing, because I have had a series of town meetings where some other things have come up about water and sewer and some mandates, and we have approved certain projects and then they said well yes, we approved it, but now I want you to do it a different way and it has cost the smaller cities a lot of additional dollars. So I would like to just present that.

Mr. TOWNS. We will hold the record open for 5 days.

Ms. BROWN. Thank you.

Mr. TOWNS. Without objection.

Congressman Mica.

Mr. MICA. Well, I am glad this panel had an opportunity to make some comments, and I want to thank Mr. Breaux, in particular, for raising several alternatives—the partnerships, the idea of an appeal board is kind of interesting, I think I might like to pursue that. Where there are questions of reasonableness, there should be some alternative board just to comply and do it no matter what—the flexibility, the empowerment to local government.

I think you have given us a couple of good ideas and I appreciate your testimony.

I was also glad to hear from Mr. Thomas and he is so correct that there are some mandates from the Federal Government that truly have enabled minorities or oppressed interests in this country to be heard and to have a forum. And I do not think we should look at doing away with any of those things that have helped bring about equality. But by the same token, I might say that if you look at some of the things we have heard today—the Sanford city manager told us of the multimillion dollars it is going to cost for certain types of questionable mandates from the Federal Government dealing with Lake Monroe, and we all know that we have got communities here, Midway and others, that need infrastructure, that need water and sewer and street improvements. If we could be putting that money to something that would provide better living condi-



tions and public works for our people. We heard the illustration from Pinellas County of the lead. Think of how many more children that do not have the opportunity to have early learning advantage that could be taught, with the millions of dollars that are being spent on something that we do not know, is really sensible as far as our approach.

I think also with Mr. Watson, of the 57 employees that he has in the city of Orlando and how their resources could be better spent in some of the areas of Orlando. I remember working on some projects in Ivy Lane and with some of the community leaders. If we took those resources and improved the ability of people to do well in our community, rather than on chasing some rainbow mandated by the Federal Government that does not have a lot of results, I think we could all be more effective, and that is my intent and hopefully the intent of this subcommittee, in trying to make what we do from the Federal level make sense.

That is sort of a comment and you do not have to respond, but again, I appreciate your bringing us your point of view and suggestions today.

And finally too, Mr. Chairman, again, I cannot thank you and Mr. Schiff—Ms. Brown of course has a good ways to drive from Jacksonville, but it is our district and we represent these folks and we are here, and I know you came a long way to participate in this from New York and from Albuquerque, NM, Mr. Schiff, our ranking member, away from your families and constituents. We do appreciate this and particularly the opportunity for these people which is really where the rubber meets the road, local government, to have their say in their hearing today. So I thank you and I also thank my colleagues on the panel.

Mr. TOWNS. Let me thank you, Congressman Mica, and also of course the other members of the committee. I think that we have been able to get a lot of information and I think that that is very, very important, because there are a lot of things that will be going on over the next few months and of course, we will look at the crime bill, we will look at health care reform, we look at a lot of things that are going to require—close out quick?

Mr. WATSON. Yes. I know the question was asked I think to Lynn Tipton about a lot of the cities that were at their 10 mill cap and everything, and just to speak for Orlando, we are at 6.06 and we have held that cap on for the last 5 years. And we have done that because we have been successful, as I mentioned before, being successful in a lot of public/private partnerships that we have looked into. We feel that the city of Orlando is a forward-thinking city and we look at some of these new things that a lot of other cities, you know, are laying back and kind of watching to see how it goes, but we have done that and we have kept that, and it is not always politically expedient to raise taxes, a lot of people do not want to hear about that, but we have been successful in not raising it. And we were one of the three cities in Florida that did receive a grant for additional officers, and we were able to put 26 additional police officers on the street. But as my colleague on the panel had mentioned, that is more or less like a delayed, because after 3 years, we are going to have to pick up the cost of that and it is kind of hard sometimes to get a public partnership to fund police officers,



so it is going to come directly from our coffers. But we know it is something that was needed, but it was still something that is out there.

Thank you, sir.

Mr. TOWNS. Thank you very much.

Mr. BREAU. Mr. Chairman, may I submit my full remarks for the record?

Mr. TOWNS. So ordered, yes.

So let me thank you again for your comments, I certainly appreciate the information that you have shared.

Mr. MICA. Mr. Chairman may I ask unanimous consent that the record be left open for——

Mr. TOWNS. Five days.

Mr. MICA [continuing]. Five days for additional testimony.

Mr. TOWNS. Without objection, so ordered.

The Committee on Government Operations is now concluded.

[Whereupon, at 12:58 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

# APPENDIX

## STATEMENTS SUBMITTED FOR THE RECORD

JOHN CONYERS, JR., MICHIGAN,  
CHAIRMAN

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GLENN ENGLISH, OKLAHOMA  
HENRY A. WAXMAN, CALIFORNIA  
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### Congress of the United States

#### House of Representatives

#### COMMITTEE ON GOVERNMENT OPERATIONS

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INDEPENDENT

MAJORITY—(202) 225-6081  
MINORITY—(202) 225-6074

#### Statement of the Honorable John Mica (R-FL) Human Resources and Intergovernmental Relations Subcommittee

#### Field Hearing on the Impact of Unfunded Federal Mandates in Florida Sanford, Florida February 26, 1994

Mr. Chairman, I want to thank you and our Ranking Minority Member, Congressman Schiff, for convening this hearing here in Central Florida. This is the second in a series of hearings on unfunded mandates. Our first hearing in Harrisburg, Pennsylvania was an excellent first step toward educating the Subcommittee about the burdens of mandates. I would like to welcome our witnesses, and I look forward to their persuasive testimony here this morning.

When exploring the how and why of unfunded mandates, Florida serves as an interesting case study. The state has become the destination of choice for vacationers around the world, for immigrants who choose Florida as a haven, and for Americans eager to settle in a growing state with expanding opportunities. Yet accommodating this growth makes the state vulnerable to some of the most expensive unfunded mandates.

The Clean Water Act is shaping up to be the most expensive mandate cities have ever seen, to the tune of 3.6 billion dollars for just 314 cities nationwide in fiscal year 1993 alone. The Safe Drinking Water Act requires not only that communities test their water for contaminants, but specifies treatment techniques as well. The Immigration Act mandates that cities and counties provide medical care, social services and corrections to immigrants and refugees -- and while some federal reimbursement is provided, states and counties must bear most of the cost. Even the Clinton Administration acknowledges that there are over 172 mandates imposing requirements on state and local governments.

Mayor Hood of Orlando will testify this morning, and I would like to look at her city for a moment. In an October 1993 survey by the U.S. Conference of Mayors, Orlando reported that compliance with just ten of the most costly unfunded mandates cost the city 8.6 million dollars in fiscal year 1993. That is not small change, but at least Orlando does not have to shoulder New York City's cost for the same ten mandates - 475 million dollars. Imagine the gains to be made in public safety or infrastructure improvement with just a fraction of that money.

Statement of the Honorable John Mica  
Page 2

The Safe Drinking Water Act is growing so expensive that Florida's smaller communities cannot afford to comply. This Act forces communities to test for at least 84 contaminants, many of which never have, and probably never will, be present in the water supply. One now-infamous example is the mandate that local governments around the nation test for a pesticide used only on pineapples in Hawaii. Surely, there is a better way to spend scarce state and local resources to protect our citizens.

No one is opposed to the goals of most mandates. The problem is that state and local governments can no longer afford them. The cumulative cost of these mandates prevents communities from putting more police on the streets, improving infrastructure, or expanding community services. And as long as the Federal Government continues to impose unfunded mandates, the bill will grow for states and localities.

Mr. Chairman, there are a number of proposals pending in Congress to provide relief from mandates. One proposal revisits existing mandates, others require better cost estimates, and a few require that new federal mandates be federally funded. I hope that once we return to Washington, we can work together with Congressman Schiff and the Full Committee to explore these proposals and to find some resolution of this difficult issue.

Thank you.



**TILLIE K. FOWLER**  
4TH DISTRICT, FLORIDA

**ARMED SERVICES COMMITTEE**

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MILITARY INSTALLATIONS AND  
FACILITIES  
MILITARY FORCES AND  
PERSONNEL

**MERCHANT MARINE AND  
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**Congress of the United States**  
**House of Representatives**  
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**Statement by Rep. Tillie K. Fowler**  
**February 26, 1994**

As a member of the Jacksonville City Council for seven years, I saw first hand the impact of unfunded federal mandates and regulations.

When asked for horror stories about misguided and unfunded mandates that drain local budgets, officials in my district could go on for days. The plain truth is that elected officials in Washington have overextended their credit and are now spending the money of businesses and local governments.

Local officials would like to put more police on the streets and invest in our schools. Unfortunately, the burden of federal mandates leaves little flexibility for localities to pursue worthwhile programs. Smaller municipalities in my district cannot even begin to deal with the "one size fits all" mandates and regulations that have been imposed by the federal government.

Here are just a few of the examples of federal mandates at work in the five counties of my district:

**Jacksonville-** In 1993, the city spent an estimated total of \$6.6 million in order to comply with the Underground Storage Tank Regulations; Clean Water Act; Clean Air Act; EPA asbestos rules; Americans with Disabilities Act; and the Fair Labor Standards Act.

By the year 1998, the cost of compliance with federal asbestos regulations is expected to reach to reach \$17 million. Current regulations discourage the demolition of buildings containing asbestos, and government entities performing condemnation or demolition activities must comply with the EPA's Asbestos regulations. Individual owners need not.

**Atlantic Beach-** In 1993, the EPA levied a \$41,000 fine against the city of Atlantic Beach--population 14,000. They were fined because of the periodic failure of the systems water meter, which had been struck by lightning. In good faith, the city notified the EPA of the problems, but were fined anyway. The citizens of Atlantic Beach were essentially fined for "an act of God," and penalized for their honesty in notifying the EPA. Also, the EPA does not take into consideration the size of the city being fined. Atlantic Beach received the same fine that New York City would have received for the same offense.

**Neptune Beach-** With a population of only 6,500, a violation of the Safe Drinking Water Act cost the city \$100,000, which left them no money to actually fix the problem. All they can do is wait for the next fine.

**St. Johns County-** Even though St. Johns County leads the entire state of Florida in the percentage of money spent in the classroom versus administrative costs; they can no longer afford the cost that unfunded mandates take out of the classroom. The Americans with Disabilities Act requires the schools to replace all of the school district round door handles with levers. In one middle school, the cost is \$22,000, and there are 21 schools in the county. This well-intended act also requires two heights for every water fountain-- at \$12,070 each.

**Nassau County-** Due to the large size of the county, there are many rural areas which depend on volunteer firemen. Under the Fair Labor Standards Act, professional firemen who wish to volunteer on their off-time cannot do so without compensation. This restriction places great hardships on small communities where funding and human resources are limited.

**Ormond Beach-** Unfunded mandates mean that up to a quarter of the city budget is out of the control of local elected officials. Recycling requirements; EPA regulations on lead and copper in water; and the implementation of storm water treatment are just a few of the mandates that will cost the city millions of dollars.

As a federal legislator, I realize that the Congress enacts very worthwhile programs. However, as a former local official, I know that mandated programs coming from Washington without the funds to implement them often do more harm than good.

Unfortunately, many unfunded federal mandates do not take into account the ability of our smaller municipalities to comply, and they are implemented with rigid guidelines and penalties. We cannot continue to dictate to the people back home and refuse to provide them with the resources necessary to get the job done.

**Unfunded Federal Mandates  
and Their Effect on the  
Volusia County Public Schools**

First I would like to introduce myself. My name is Dr. Henry R. Boekhoff, Assistant Superintendent for Financial Services for the School District of Volusia County, Florida.

On behalf of the School Board of Volusia County and Dr. Joan P. Kowal, Superintendent of Schools, I appreciate the opportunity to present testimony on the effects unfunded Federal mandates have had and continue to have on the Volusia County Public Schools.

The direct effects of recent unfunded mandates are as follows:

1. The change over in CFC's (chlorfluorcarbons) effective July 1, 1994, is estimated to cost \$3.0 million. However, currently there is no viable solution for refrigerant replacement.
2. The asbestos removal requirements have already cost \$4.0 and when complete will total \$5.0 million.
3. The implementation of the Americans with Disabilities Act has already cost \$1.0 million is estimated to cost \$4.5 million when completely implemented.
4. The lead in drinking water requirements will cost .5 million when complete.
5. The underground fuel storage tank removal requirements have cost \$2.0 million.

These costs total \$15.0 million and have had a significant negative impact on ability to provide needed new schools and renovate old schools to accommodate new technology to facilitate improvements in education. These costs have impacted the capital budget of a school district which has been growing at the rate of 2,000 students per year for the last 10 years.

Another federal mandate has negatively impacted the operating budget. The mandate is known as the Individuals with Disabilities Education Act (IDEA.) The federal share was supposed to be 40% of the cost but has amounted to only 7%. Thus at a time when there has increased calls for improvements in our nation's schools another Federal policy limits the capacity of school districts to respond.

Obviously an unfunded mandate has the effect of altering local priorities. However, there is an even more insidious effect. Since school district vary greatly in fiscal disparity, the effect of unfunded mandates is more severe on poorer districts than wealthier ones.



3/8/94



# ORANGE COUNTY PUBLIC SCHOOLS

P. O. Box 271  
32802-0271

Orlando, Florida

445 West Amelia Street  
32801-1127

March 4, 1994

The Honorable John L. Mica  
House of Representatives  
427 Cannon House Office Building  
Washington, DC 20515-0907

Dear Representative Mica:

I am responding to your letter of February 14, 1994 requesting public agencies to identify and describe the impact which unfunded federal mandates have on state and local governments. This issue is certainly a timely one for the state of Florida and for local school boards as we struggle daily to carry out mandates of the federal government without adequate funding to meet the letter and intent of the law. We seem to be locked in a vise with the government mandating (but not funding) programs and services on one side and our public demanding no new taxes on the other side.

I am aware of the fact that one of the major topics for discussion at your meeting in Sanford was the problem of immigration faced by city and county governments. The school system is impacted greatly by the public policy on immigration as students in Orange County come from 174 countries and speak 60 different languages. We are required to provide instruction to students who come to us without the ability to communicate in English, and this costs millions of dollars each year. We are not objecting to meeting the needs of these children, but the fiscal impact on the school district is tremendous.

I asked Richard Chapman, our associate superintendent, responsible for programs for disabled students, to identify federal mandates which are unfunded or underfunded to meet the needs of this population. He has prepared the attached information. He also relates the story of a student who recently entered our system from a South American country. This student had not been in school in her native country for the past three years. While being evaluated by the school psychologist, she physically attacked the evaluator. When we placed her in school, it took four staff members to control her for the first week of school. At the present time, we have a full time staff member assigned to her. To work with children with these severe problems require highly trained personnel and a one-to-one adult-student ratio. This is very expensive and our funding formula from the state government and the funds we receive from the federal government do not come close to covering the costs.

Thank you for the opportunity to provide written testimony to your committee. If I can provide additional information, please contact me.

Sincerely,

Susan Arkin  
School Board Member, District 6

### **UNFUNDED OR UNDERFUNDED FEDERAL MANDATED PROGRAMS**

The following programs and services are either unfunded or grossly underfunded to meet the law and/or rules and regulations of the federal and state government.

- a) **PHYSICAL AND OCCUPATIONAL THERAPY (PT/OT).** PT/OT is required by the Individuals for Disabilities Education Act (IDEA) as a related service which children may need in order to benefit from an exceptional education program. In the state funding formula, PT/OT has a weighted funding of 10.664. This provides about one third of the funds required to operate this program. Orange County spends over 235 percent of the revenue generated in this program plus funds from the IDEA federal project grant. The funding formula does not take into account the fact that PT/OTs make upward of \$60,000 per year in the private sector. Also, our PT/OTs must spend time traveling from school to school to provide the therapy in a student's home school. We lose valuable therapy time because of the travel time required. In order for the PT/OT program to generate funds at the rate of a general education class, the therapist would have to see 2.5 students per hour for 25 hours per week. This is a therapy that is usually delivered one-to-one and to provide therapy to 2.5 persons at one time is impossible. Also, the district is unable to employ PT/OTs and must contract with private companies at the rate of upward of \$50.00 per hour.
- b) **SUPPORT SERVICES.** State and federal funding does not provide for the necessary support services, i.e., psychological services, completion of social case histories and adaptive behavior scales, required counseling, behavior specialists/analyst, personnel to coordinate the placement of students into programs and many other required services. The state funding formula was originally designed to provide enough funds to cover these overhead costs. However, year after year the weighted funding has decreased while the overhead expenses have increased. IDEA was originally designed to cover some of these overhead cost, but this act has never been funded at the level originally committed by the Congress.
- c) **NONPUBLIC SCHOOLS.** The law requires the school district to provide programs and services to disabled students in nonpublic schools. Parents expect the school district to evaluate their nonpublic school child to determine if they may have a handicapping condition. The student is not enrolled in the school system and does not generate funds from the state funding formula nor from the IDEA grant. The parent never enrolls the child in the system, therefore, the system does not receive any funds. (The law requires it, the parents expect it, and the school district has no means by which to access funds to even partially cover the costs. It is difficult for parents to understand that they pay taxes, but the school district does not receive the money unless the student actually enrolls and attends school.) There is also the expectation that we will perform the evaluation the next day after the request. The latest approach is to request that we evaluate high school seniors in nonpublic schools to qualify them for test modifications on The College Board Entrance Examination.

Unfunded or Underfunded Federal Mandated Programs  
Page 2

- d) **ASSISTIVE TECHNOLOGY.** School districts are mandated by law to provide any assistive technology devices required by a child in order for the child to benefit from the education program. State and federal law requires that "each public agency shall ensure that assistive technology devices or assistive technology services, or both are made available to a child with a disability if required as a part of the child's IEP." This means any item of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain or improve functional capabilities of individuals with disabilities. These devices cost a great deal of money. There are no funds allocated to school districts to cover the purchase of assistive technology devices. The state does not provide funds and the federal government does not provide for this but they mandate it and require districts to come up with the money. Assistive technology devices require a great deal of funds and will require an even greater portion of the budget in the future.
- e) **AMERICANS WITH DISABILITIES ACT (ADA).** The ADA mandates access to all public facilities but does not provide the first dollar to public agencies to meet the mandates of the law. In a recent article in the Orlando Sentinel, two state universities (FSU and USF) were found to be deficient in meeting the ADA standards. It was estimated that \$100,000,000 would be needed to bring the two universities up to the standards established by the ADA. These two universities were allocated \$900,000 by the state legislature and no funds from the federal government. The Orange County Public Schools will be doing an ADA survey at the cost of \$365,000 in the next several months. It will cost millions of dollars to bring OCPS facilities to the ADA standard. The standards established by the ADA are certainly acceptable, but there are no funds provided to school districts by the state or federal government.
- f) **SECTION 504 OF THE REHABILITATION ACT OF 1973.** This act expands the definition of disabled beyond the categories normally associated with the Individuals with Disabilities Education Act. Section 504 defines a person as "any individual who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such an impairment." It expands the definition of handicap to persons who have ADHD, a communicable disease (HIV, Tuberculosis), a medical condition (asthma, allergies, diabetes, heart disease), a temporary medical condition due to illness or accident, a behavioral difficulty, drugs/alcohol addiction, or some other condition which may be perceived as a handicap. This section requires school districts to evaluate and provide individual accommodation plans for students so identified. There are no funds provided to the school district for Section 504. For noncompliance the government will take away all federal funds from the school district. Section 504 is a civil rights anti-discrimination law.
- g) **DUE PROCESS HEARING.** Federal and state law provides for due process hearings and legal action in state and federal courts if a parent feels their child is not receiving a free appropriate public education. Due process and court actions require inordinate amounts of attorney time as well as school staff time to process. These hearings have for all practical purposes turned into full blown court trials with attorneys requesting any and all records pertaining to their client and the operation of the district's programs for disabled students, scheduling



Unfunded or Underfunded Federal Mandated Programs  
Page 3

depositions, proposing and negotiating settlement agreements and conducting the due process hearings exactly like a court room trial. If the district loses, then the district becomes responsible for the attorney fees of the plaintiff attorney. There are no funds for due process hearings and court actions. This is really an overhead expense which is not provided for in the state funding formula nor in federal allocation of IDEA funds. (This area is requiring increased resources as more and more attorneys learn that the government will pay the fee.)

**CONCLUSION.** Educating disabled students is an expensive effort which requires large amounts of funds to provide for the identification, evaluation, placement, support services and direct educational interventions. For one child it may not seem to be a great deal of money, but multiply by the 21,000 exceptional students in Orange County and it becomes more money than government is willing to provide.

The reality of the situation is that the state and federal governments have mandated more education than there is money to pay for it. In so doing, they have created tremendous legal liability for school boards and local and state government agencies.

J. Richard Chapman  
Associate Superintendent  
Student Support and Exceptional Education  
Orange County Public Schools  
Orlando, Florida

Enclosure

# The City of Daytona Beach

COMMISSION-MANAGER PLAN  
DAYTONA BEACH, FLORIDA 32115-2451

POST OFFICE BOX 2451

PHONE AREA 904 232-6461

MEMO TO: • Howard D. Tipton, City Manager  
FROM: Thomas M. McClelland, Public Works Director  
DATE: February 24, 1994  
SUBJECT: Unfunded Federal Mandates

*25 Feb 94*

Attached hereto is a summary of the impact of Unfunded Federal Mandates upon the City of Daytona Beach, as related to Water/Wastewater, Vehicles, Stormwater, and Solid Waste issues. The information provided is comprised of both hard fact budget numbers and estimates. The latter are necessary because we do not have a precise tracking system to identify some of the mandate updates.

Particular attention is invited to the comments regarding freon replacement and stormwater management. These regulations are currently in effect. Their full impact is yet to be experienced. We are also aware of additional safe drinking water regulations being promulgated, but do not have sufficient information at this time as to even estimate their financial impact.

It is not clear as to the initiating government with respect to Wetlands Monitoring requirements. These regulations may emanate from the Federal level but are expressed to us at the State level. As wellfields are extended, and as more comprehensive analysis of Wetland impacts is conducted, it can be expected that the Wetlands Monitoring Program will be extended, thereby resulting in additional costs.

If you have any questions, please advise.

dm  
Attachment

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# The City of Daytona Beach

COMMISSION-MANAGER PLAN  
DAYTONA BEACH, FLORIDA 32115-2451

POST OFFICE BOX 2451

PHONE AREA 904 252-6461

9/25 FEB 94

MEMO TO: Thomas M. McClelland ~~Public Works Director~~

FROM: Richard P. Dembinsky P.E. *RPD*  
Water & Wastewater Engineer

SUBJECT: Review of Federal Mandates

DATE: February 25, 1994

This memorandum is intended to keep to you informed of the impacts of Federal mandates on City budgets and manpower utilization. While each of the following Federal regulations have meaningful objectives the regulations fail to properly evaluate the implementation costs of each mandate and the reasonableness of the implementation schedule.

Department of Labor  
Occupational Safety and Health Administration  
29CFR Parts 1910  
Permit-Required Confined Spaces for General Industry: Final Rule

The regulation includes a permit system, for entry into those confined spaces (permit spaces), which pose special dangers for entrants because their configurations hamper efforts to protect entrants from serious hazards, such as toxic, explosive or asphyxiating atmospheres. The new standard provides a comprehensive regulatory framework within which employers can effectively protect employees who work in permit spaces.

## Mandate Impact

Capital budget first year of program is \$120,000  
Capital budget second year of program is \$375,000

Operation and Maintenance of program will be \$100,000 per year. Additional personnel to manage program and time for training of each employee working in confined space areas. Employers must be certified by a training organization.



Safe Drinking Water Act  
Public Law 93-523

The present allowed level of Trihalomethane (THM) will be more stringent thereby increasing treatment cost plus capital costs for needed improvements to comply. The 100 parts per billion will likely be 80 parts per billion within the next year. It continues to be unclear as to when the 80 parts per billion level will be required and for this reason is impacting what modifications to the water treatment process can be implemented in a timely manner. The City of Daytona Beach is proceeding to modify the disinfection process by utilizing Chloramine Chlorination (Addition of Ammonia). The initial mandate for THM caused the City to spend in excess of \$2,000,000. The new mandate will increase the City's water treatment costs by \$200,000 per year.

Lead and Copper Regulations

The initial value of the studies completed over the past year is \$250,000 and this effort utilized existing manpower. The anticipated chemical addition costs will exceed \$200,000 per year.

Freon Replacement Regulations

The initial cost to the City may be as much as \$100,000 in order to retrofit existing vehicles.

NPDES Stormwater

It is estimated that this mandate may cost the Daytona Beach area \$50,000,000.

201 Facility Plan/Sewer System Evaluation Survey

Even though the Federal funding of wastewater treatment and system improvements has dried up, the Federal mandates are still impacting the City of Daytona Beach. To simply get on the priority list for State/Federal loans for wastewater improvements the stringent evaluation of alternatives and public hearing requirements must be completed. This mandate is preventing the City of Daytona Beach from securing low interest loans even though the City previously completed a 201 Facilities Plan, the Federal mandates are requiring an expensive updates. The City has totally televised its sanitary sewer system, however, cost evaluations prepared by the City must meet the old Sewer System Evaluation Survey regulations. Compliance with these old Federal mandates will cost the City of Daytona Beach \$500,000.

Other mandates that will impact the City include wetlands monitoring and scheduled additional safe drinking water standards.

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FEB 23 1994

PUBLIC WORKS DIRECTOR  
Daytona Beach, FL

SOLID WASTE MANAGEMENT  
POST OFFICE BOX 2451  
950 BELLEVUE AVENUE  
DAYTONA BEACH, FLORIDA  
32115-2451  
(904) 258-3172  
FAX (904) 258-3153

Memo To: Thomas M. McClelland, <sup>23 Feb 94</sup> Public Works Director  
From: Kenneth Lee Resor, Solid Waste Manager (KR)  
Date: 23 February 1994  
Subject: Unfunded Federal Mandates - City's Impact -  
Solid Waste Management

You requested this division provide information concerning the fiscal impact federal laws and regulations have on the City of Daytona Beach's solid waste management through unfunded federal mandates.

The County's Solid Waste Director, Jim Griffin, was contacted and provided the following information:

Due to the Federal Resource Conservation and Recovery Act and the implementing federal regulations, the County has experienced the following fiscal impacts:

1. The latest cost estimate for the development, use and closure of a Class I Sanitary Landfill is \$400,000 per acre. Ten years ago the same site could be developed for \$40,000 to 45,000 per acre.

2. The federal regulations require a double composite liner and daily cover of the deposited landfilled material. A single liner was previously required and cover was allowed within 18 hours of disposal. The fiscal impact on the County has been an increased cost in the development of landfills (See #1) and has added an additional \$1,000,000 to the annual operational costs due to the daily covering of deposited material.

The above County operational and developmental costs, which are directly attributable to federal laws and

(Page One)



regulations, have been funded with no federal fiscal assistance. The costs of the federal mandates have been funded through the County's tipping fees and have been paid by the user's of the landfill.

The City's solid waste management contract requires the waste hauler to utilize the County's landfill for the disposal of all collected solid waste. It is estimated by the County's Solid Waste Management Director that 40% of the tipping fee is directly related to federal laws and regulations.

Of the City's annual payment to the City's waste hauler, which amounts to \$3.8 million, it is estimated that 50% is due to the contractor's tipping fee payments; therefore, the impact on the City due to unfunded federal solid waste management mandates would be \$760,000 per year or approximately 20% of the City's utility billing for refuse service.

(Page Two)



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